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THE PHILIPPINE PRESIDENTIAL ELECTION

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

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THE PHILIPPINE PRESIDENTIAL ELECTION

THURSDAY, JANUARY 23, 1986

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 10:06 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Richard G. Lugar (chairman of the committee) presiding.

Present: Senators Lugar, Pressler, Murkowski, Pell, Biden, Cranston, Dodd, and Kerry.

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee is now called to order.

The Committee on Foreign Relations meets today for its third hearing in less than 3 months on the subject of the situation in the Philippines. On October 30, 1985, the committee heard the administration put forward and explain its policy toward the government of President Ferdinand Marcos in the light of the political, economic and insurgency difficulties besetting the Philippines.

Subsequently, a "snap" Presidential election was called by President Marcos. The committee commissioned the Center for Democracy of Boston University to assess the election laws and the procedures governing the campaign and the election itself scheduled for February 7 of this year.

In its bipartisan report to the committee, the Center for Democracy, on December 18, 1985, provided a number of guidelines which, though not exclusive, have provided an extremely useful basis to the committee and the public at large for an understanding of the ingredients of a fair, free, and open presidential election and the political environment surrounding such an election.

One month later, in early January of this year, a second study mission visited the Philippines to analyze the election campaign. I refer to the joint effort by the National Republican and National Democratic Institutes for International Affairs.

One important purpose was to assess the desirability of the United States sending an official delegation to observe the February 7 election. The institutes built upon the findings of the Center for Democracy's study. The Committee on Foreign Relations welcomed the opportunity to hear this second analysis of prospects for the presidential election, in effect at midpoint in the campaign.

Today we are pleased to have before the committee the executive directors of both the Republican and Democratic Institutes. To comment on their testimony and to offer an update on the election campaign, we also have present representatives of the administration.

Before asking the distinguished Senator from Texas, Senator Gramm, who has very recently returned from important visits in the Philippines to comment, I would like to offer these additional comments.

With the February 7 election only 2 weeks distant, the Congress must decide whether it will participate in any delegation which the administration may wish to send to the Philippines to observe the election process.

This is a very important decision. It is one over which this committee has pondered in recent weeks, as the campaign in the Philippines has unfolded.

I know that the members of the committee are vitally interested in this election and how its outcome, including the manner in which it is conducted, will affect the course of events in that important country.

Let me make plain that I have no illusions about observer delegation's ability to make an accurate and conclusive judgment on the fairness of the February 7 election. Only a limited number of locations can be visited; only a handful of the Philippines' 20 million voters can be interviewed; and there can be no access whatsoever to the behind-the-scenes activities before and during February 7.

Let us state clearly the role of observers. They cannot give a seal of approval or disapproval, but they can provide moral and psychological support for those voters, be they pro-Marcos or proopposition, who wish to participate in an election which accurately reflects the will of the Filipino people.

At this point, I will speak only for myself on the matter of congressional participation in an observer delegation. I have not yet made up my mind. I will reserve judgment until after today's hearing.

I have no hesitation, however, in stating my misgivings about what we have seen thus far during the election campaign, particularly in the light of the considerations so lucidly set forth in the Center for Democracy report.

First of all, despite repeated assurances, President Marcos has not retired General Ver from his position of Chief of Staff of the Philippine Armed Forces. It now appears that Ver may stay on indefinitely.

What does this say about the urgently needed reform in the armed forces and what does it say about the Marcos government's commitment to noninterference in the electoral process by the military?

Second, despite repeated assurances, President Marcos has not filled the two vacancies on the commission for elections, Comelec. This failure to act calls into question the commitment of the government to an election oversight process which is genuinely nonpartisan.

Third, the election law provided for free media access by all parties, which is known as Comelec time. This was not made available promptly to the opposition, but only after the campaign was well underway. Moreover, media coverage of the Aquino-Laurel campaign is relatively light compared to that afforded the Marcos-Tolentino campaign.

Fourth, it is doubtful that Namfrel, the citizens watchdog organization accredited by Comelec, will be allowed to carry out its "Operation Quick Count." Instead, three newspapers owned by the relatives or close friends of President Marcos are reportedly being designated to do their own "quick count."

How fair would such reporting be?

Fifth, there are disturbing reports of violence and intimidation by the Government linked to the election. For example, a prominent opposition organizer in Tarlac Province was assassinated a week ago under circumstances which implicate Government officials. What does this imply about election day?

Finally, there seems to be ambivalence on the part of the Philippine Government with regard to foreign observers. On the one hand, President Marcos and other high level officials declare that observers would be welcome. On the other, Comelec decrees that observers may not come closer than 150 feet to the polling places. There are other signs that observers will be restrained.

Obviously, foreign observers should in no way breach Philippine sovereignty or interfere in the election process. But if invited to observe, they should be permitted to do so effectively.

These are but some of the issues and factors which I believe we should explore further at this hearing.

We will begin the hearing by first hearing from Senator Gramm. Next we will hear from a panel consisting of Keith Schuette, executive director of the National Republican Institute for International Affairs, and Brian Atwood, executive director of the National Democratic Institute for International Affairs.

Our third panel will consist of Richard Armitage, Assistant Secretary for International Security Affairs, Department of Defense, and Paul Wolfowitz, Assistant Secretary for the Bureau of East Asian and Pacific Affairs, Department of State.

Before calling upon our first witness, I would like to recognize the distinguished ranking member of this committee, Senator Pell, for his opening comments.

Senator PELL. Thank you very much, Mr. Chairman.

I congratulate you and commend you on calling this hearing.

You have outlined pretty well all of the obstacles to this election being conducted fairly. I look forward to being educated in the course of the hearing as to a final view on this matter. But when one realizes the various points that you have covered, as well as the fact that the computerization of the vote count has been dropped, it would seem to me very difficult to engage in an observer operation without giving a seal of approval to the results. This is a question that I know you and the rest of us must weigh.

I look forward at the end of the hearing to having our views coalesce into a recommendation.

The CHAIRMAN. Thank you, Senator Pell.

Senator Pressler.

Senator PRESSLER. Thank you.

Very briefly, I have been concerned that there may be orchestrating, actually or accidentally, kind of almost a death wish to the Marcos regime, in the sense of influencing a foreign election. Recently we have had major stories in our media critical of Marcos regarding property and military records. One of our House congres-

sional hearings has been orchestrated to be very critical at this time.

I think, in making the decision of whether to send an observer delegation, we must keep in mind that the Philippines is a sovereign nation. There is a lot of positive side to the Government there. It has been one of our great allies and has beaten back a Communist insurgency.

So I hope that we recognize the great pitfalls.

I am very skeptical about sending an observer group because if you were to go through a number of scenarios, we could, in an ex parte way, become even more of a party to the election there and find ourselves in a situation that we do not want to be in. If things go fine, it is good to have observers. But we must remember that we are dealing with a sovereign nation.

Indeed, if other countries were to send observers to elections here, they might be critical of the lack of free access to the media, something our candidates certainly do not have, if we really analyze it. Newspapers taking positions for one candidate or another is something we certainly do not control.

So we might be holding them to a standard for their particular situation which is very difficult, and an observer group could easily backfire if things do not go well and it is an inconclusive election. We would be drawn into it by having high-level Americans on the scene, either putting a stamp or imprimatur on it.

I think we should carefully go into the business of whoever is going to decide—I guess it would be the President. Let me say that I am very skeptical, and if I were asked for my opinion at this time, I would have to be against it.

But I am going to listen this morning very closely to the witnesses.

The CHAIRMAN. Thank you very much, Senator Pressler.

Senator Cranston.

Senator CRANSTON. Thank you, Mr. Chairman.

I want to express my appreciation to you for today's timely hearing on the Philippines election.

We are united on this committee, Republicans and Democrats, in our commitment to promote democracy for the Philippine people. We are united in our determination to protect America's vital interest in our Philippine bases.

Unfortunately, the Philippine elections are looking more and more like the kind they have in the Kremlin—"elections" where the oligarchy always wins.

Consider the events of the past few days.

Marcos' lieutenants, worried that the eyes of the world might witness the massive fraud tactics used so successfully in the past by the Marcos regime, have barred all foreign government officials and journalists from observing the voting. President Marcos, anxious that the opposition candidates might be reaching the Philippine people, has intimidated news executives throughout the country. The result is that the opposition candidate has only appeared on the state-controlled TV news three times in the past 10 days. She is never quoted. Her enormous crowds are not shown.

All five of the nation's TV stations have refused to carry the opposition's commercials. They have been held up for censorship

review by a board responsible for purging sex and violence from TV films.

The nation's four largest newspapers, all controlled by Marcos cronies, read like campaign newsletters for the dictatorship. They blatantly deny equal access as they all but ignore the Aquino-Laurel campaign.

As Chairman Lugar noted, plans for a computerized vote counting to reduce cheating have been dropped. General Ver, directly implicated by Philippine investigators in the assassination of Senator Aquino, still runs the military. Citizen observers, trying to establish a poll monitoring system, are subject to fingerprinting and mugshots.

None of the election commission vacancies have been filled, thereby ensuring that the commission is but another tool for the Marcos regime.

Now I ask what does all this add up to?

Suppose this weekend's football game in New Orleans were to proceed with one team getting 10 downs and the other only 1. Suppose one team was allowed 20 players at a time on the field and the other only 2. Suppose one team started their drive from the 50-yard line and the other had to start from its own end zone. I don't think we'd call it a Super Bowl. I think we'd call it a fraud.

I don't think we can call a travesty in the Philippines an election. I call it a fraud.

It is clear Marcos is not allowing a level playing field, even with all his powers, even with all his hundreds of millions of dollars, even with his most formidable opponent dead from an assassin's bullet.

All of this promises to be an enormous boon for the Communists. It could have a devastating impact on U.S. security interests. Ferdinand Marcos remains the best friend Moscow has in the Philippines today, for in the perpetuation of his crony dictatorship lies the swiftest path for an ultimate Communist takeover in Manila.

In conclusion, Mr. Chairman, I think we have to be very realistic. It does not look like Marcos is going to allow a fair election because he is afraid he would lose.

I believe the Reagan administration must make clear, publicly and promptly, that the United States will sharply curtail its relations with the Marcos dictatorship if Marcos continues between now and February 7 to defraud the Philippine people.

We must send this message to the Philippine people and to the Philippine Government. We must be prepared to halt all military aid to the dictatorship, and we must accelerate the process already underway of developing alternatives to our facilities at Clark and Subic Bay, for if fraud carries the day, the future for Philippine democracy and for vital American security interests in that nation will be terribly bleak.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cranston.

Senator Kerry, do you have an opening comment?

Senator KERRY. I do not have a prepared statement, Mr. Chairman, but I would like to join you in saying for the record that at this point in time I am undecided as to the issue of whether or not to send an election observer team to the Philippines, though I will

candidly say that I am leaning toward it. This is not because I believe that an observer team will have the ability to be able to certify a legitimate election. However, no matter what happens on election day, some very complex and critical processes will be set in motion which will have an enormous impact on our relations with the Philippines and, indeed, on the future of the Philippines.

It occurs to me that perhaps one of the reasons observers are not being allowed within the vicinity of the polling places and the current reluctance of the President to move on such critical issues as Comelec is that Marcos does not want us there. This is because if they control the access of the Filipino people to the media, they, indeed, control the Philippines.

If they succeed in not allowing us to shed any light or open a window to the Filipino people on what is indeed happening there they stay in power more easily.

So it may be that we will have to think about how we position ourselves as a committee, and perhaps even as an observer team, to go over there not as rubber stamps for a phony election, obviously, but as interested parties who will try to shed light on and accumulate evidence of the inability of the Filipino people to have their true sentiments reflected in this election, and, indeed, thereby perhaps have greater influence on the events that succeed this election.

So I will listen with great interest to the testimony this morning and will think hard about whether or not we do that as a consequence.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kerry.

At this time, I would like to call to the witness table Senator Phil Gramm, the distinguished junior Senator from Texas.

Senator Gramm, we welcome you. You have already heard a spirited amount of discussion this morning, which may warm you up a little bit to a subject with which you already have been heavily involved.

We appreciate your going to the Philippines and especially your taking time to share with us some very important thoughts at this moment of decision for us.

STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM TEXAS

Senator GRAMM. Mr. Chairman and members of the committee, I would like to say that it is a great honor for me to come before the committee.

Before making my statement—and I do not have a prepared text—I would like to outline our findings on behalf of the Armed Services Committee and talk about issues related to American security and defense, the state of preparedness of the Army, the Communist insurgency, and to at least give some observations about out stake in the election and the election process itself.

I would like to begin, Mr. Chairman, by pointing out that I am not here as an expert on the Philippines. I not only am not an expert, I do not claim to be.

I was sent by the Armed Services Committee to the Philippines for 4 days principally to assist the security precautions that have been taken at Clark Air Force Base and Subic Naval Base, and I am happy to report to your committee that I believe progress has been made.

We have committed an increase in resources. We have seen an increased commitment on the part of the Filipino Army, which is tasked with the responsibility of providing outer perimeter security. While there is a lot more to be done, there is much left on the drawing table to be implemented, and much of that is going to cost money.

I think we have made progress. The security has been beefed up.

I think, second, as a member of the Armed Services Committee, I would like it to be clear from our point of view and from the point of view of the American military that it is easy to talk about alternatives to Clark and Subic, but the truth is there are not any good alternatives to either base.

With the Soviet buildup in the Cam Ranh Bay, we have seen a very real Soviet naval and air threat, with the deployment of the Mig-23 there, with the expansion of the facilities that, of course, we built in Vietnam, that are now being doubled and trebled by the Soviets, with the basing of both conventional and nuclear powered ships at Cam Ranh Bay. We face a very real threat in the southern Pacific.

If you look at not just the availability of a rock or a potential airstrip, but if you look at the thousands of Filipino citizens who have been trained and who have acquired skills that are essential to the operation of those bases, the truth is that there are not any good alternatives to the current location of Clark and Subic.

Second, let me say, Mr. Chairman, that it is my conclusion, having talked to both the opposition and to the government and to a lot of people around the country who are involved in the American presence in the Philippines, no matter what happens in the election, in terms of who wins, our future in the Philippines is relatively secure. Our bond there is not with a political party or with a president, but, in fact, is a bond with the people.

My brief exposure, my limited discussions with people in the Filipino military is that they want us there. The economic impact, as you can imagine, given the poor economic conditions in the Philippines of those two bases, is mammoth.

I think it is clear that, no matter who wins the election, the base at Clark and the base at Subic are going to continue to operate.

I, quite frankly, am quite hopeful that we will be able to negotiate, beginning in 1988 for completion in 1991, a new contract for those bases.

I think it is going to be essential, as part of operating those bases, that we provide increased resources to improve the training and the quality of equipment for the Philippine Army, which has the responsibility for providing most of the security there.

I think it is clear that that is going to have to happen.

Quite frankly, I came away from an extensive visit with the Filipino military with the proverbial good news and bad news feeling.

The bad news is that we have a lot of overstaying generals and we have had a lot of efforts in the past to make the Army political.

The good news is there is a strong cadre of young officers, many of whom have been trained in the United States, who have formed various organizations, like "We Belong," which is aimed at trying to make the military professional and independent of any political figure and independent of any political party.

I believe that, regardless of the outcome of this election, this element will grow stronger in the military. I think it is vitally important for American security and for the well-being of the people of the Philippines that we encourage this increased professionalization.

I met with General Ramos, who has been really the leader in the effort to professionalize the Army, and, quite frankly, I was impressed.

I also met with a lot of young officers in the organization, "We Belong," which is really an effort to rid the Army of politics and return to the professionalism which existed 10 or 15 years ago and which was successful in that time in defeating a very severe threat from Communist insurgency.

We obviously do face a strong threat in the Philippines to American interests because of Communist insurgency. But to this point, at least in terms of the intelligence that we looked at, the American bases have not become an object of potential attack, though obviously that could change any day.

I believe that, with American help with our effort to foster the increased professionalization of the Army, with modest increases by American standards in aid and training, that the Army is capable of defeating the Communist insurgency.

I think, at least in terms of the things I read before I went and the discussions I had there, we face a very severe problem with the Communist insurgency, and we face tactics that clearly are based on terror and terror alone, and tactics that, in my opinion, will not garner great support among the people.

I can say, Mr. Chairman, that in my limited discussions with the President and with opposition leaders, I think they understand that America's No. 1 concern is not who wins the election but that there be free and fair elections.

I cannot advise you, Mr. Chairman, or members of the committee whether or not you ought to participate in an effort to be impartial observers.

All I wanted to do today was to emphasize the vital importance of the Philippines to the United States. That importance, in my opinion, goes far beyond those two military bases. There are not easily available replacements for those bases. But I want to remind the members of this committee, especially those who have not been to the Philippines lately, that it happens to be still one of the few places on Earth where they love Americans.

We still have substantial quantities of the population and virtually all of the leadership who learned the Pledge of Allegiance to our flag before they did their own.

I think the cost to American prestige and, in fact, our whole fight for democracy and freedom around the world would be devastated if the Philippines went Communist.

We have 18,000 Americans buried in Manila. We have deep roots in the Philippines. The people of the Philippines still think of themselves as having lasting bonds and ties with America.

So I cannot recommend to the committee what you ought to do about being observers. But I can give two recommendations.

No 1, I think the people need tc understand the military importance of the Philippines to the United States in those two bases and recognize that there are no good alternatives to those bases.

Second, the outcome of the election in terms of the perception of a free and fair election, is vital to the people of the Philippines. I found quite frankly, Mr. Chairman, in talking to people on the streets and in talking to people primarily in the business sector, that there is a lot of interest in the elections. Quite frankly, there is a lot of excitement about it.

I found nowhere a reluctance of people to criticize the government.

I think the people of the Philippines have the same stake that we do. They want the winner to have a clear mandate.

I think if you conclude that by your participation and your prestige you can either help provide a balanced assessment of the Philippine election within the context of what is possible in the Philippines in terms of a free and fair election, or if you feel that by your presence you might make the election freer and fairer, then I think that is a strong argument for your participation.

I think it is important that we not prejudge the situation. Quite frankly, it is clear that in a government, such as the Philippine Government, the party in power has tremendous powers, as any incumbent in the United States Congress has tremendous power in terms of friends in the media and contacts. I would think the past would clearly indicate that there have been abuses of those powers in the past and there may be in the present.

But I think it is greatly in our interest to try to promote the freest and fairest elections that can occur because I think the interest of the United States is in the functioning of democracy and the strongest form of democracy that can exist in the Philippines.

The CHAIRMAN. Thank you very much, Senator Gramm, for that testimony.

Let me ask members if they wish to raise questions with Senator Gramm. If so, I would hope we would limit those to a few minutes of time.

I would simply look to a show of hands as to whether there are such questions.

Senator PRESSLER. I have just one question.

The CHAIRMAN. Yes, Senator Pressler.

Senator PRESSLER. I would like to see you submit for the record, perhaps from the Armed Services Committee staff, an analysis of what is happening in Cam Ranh Bay, what the Soviets are doing there, and how that affects the strategic importance of our Philippine bases. It is something I would like to read.

[The information referred to may be found in the appendix.]

Senator PRESSLER. Second, my question is this. When push comes to shove, has the Marccs government been on our side? They have been very cooperative in terms of military matters.

Is that not correct?

Senator GRAMM. Well, I think they have been. And, Senator Pressler, simply speaking for myself, I guess I find myself torn by the fact that President Marcos fought with us at Bataan and has been a strong ally, and at the same time his government has done much to destroy our greatest gift to the Philippines, which is democracy itself.

So, I guess like most Americans, I had mixed feelings before I went there and I have them now about the Marcos regime.

But the people of the Philippines have had a long bond with the United States. So far as I am aware, when the Japanese moved aggressively in 1941 in attacking colonies of Europeans and Americans, with the opening of their involvement in World War II, the Filipinos were the only people who were basically under colonial power who fought the Japanese.

Senator PRESSLER. If the country should go Communist, when do our leases on those bases run out?

Senator GRAMM. The leases run out in 1991. But you have to realize that those contracts have been negotiated and renegotiated many times, and, should the Government go Communist, we certainly would not be able to stay, no matter what the leases are.

Senator PRESSLER. Thank you.

The CHAIRMAN. Thank you very much, Senator Pressler.

Senator Kerry.

Senator KERRY. Thank you, Mr. Chairman.

Would you say from your visit there that you are able to make a judgment now that you could now share with us with respect to whether or not can there be free, fair, and open elections in the Philippines?

Senator GRAMM. That's a hard question, Senator Kerry, to answer, and I don't claim to have any expertise on it. I do know that it is my perception that there is a strong desire on the part of many opinion makers to see that happen.

I think there is a belief in the country that there is a hotly contested race, and, having talked to political and business leaders on both sides, and having been in many campaigns myself—and this is really where I do consider I have some expertise—I can tell you that both sides believe it is a hotly contested election. I see both sides being concerned about the outcome.

That suggests to me that there is a hot contest going on and that the outcome of that contest is still very much in doubt.

Senator KERRY. With respect to the issue of the bases, which would you say is more important: that we hold onto the bases or that we take the steps necessary to make clear to the world and to the people of the Philippines that we support democracy and that we will back up what we said we would last year in our amendment, which passed 89 to 8, in which we said that if certain things did not happen, we would reduce military aid and assistance to the Philippines? Which is more important?

Senator GRAMM. Let me say that I do not see a conflict between the two.

I think it is important, however, that we tie our military assistance to the threat, to American interests in the bases. We have set up an agreement where the Philippine Army provides security. As that need for security grows, we are going to have to provide the

communications equipment; we are going to have to provide the weapons and the training necessary to have it if we are going to have the security.

I think it is vitally important that this committee look at the whole effort underway from within inside the Philippine Army, from this "We Belong" movement of young, American-trained officers, to professionalize the Army, and tie our aid to what they are doing and the progress that is being made there, and not to whether we agree or disagree or like or dislike political figures who are in power.

Again, I emphasize that our bond is with the people of the Philippines. I think we have to find a way of helping them fight off the Communist insurgency and promote democracy at the same time.

I think it can be done.

Senator KERRY. So, as I understand your answer—I just want to be clear about it—we can take steps necessary to deal with the insurgency, to deal with the Marcos regime and its attitude toward human rights and other problems and still maintain the security of our bases?

Senator GRAMM. I think that's correct.

Quite frankly, I intend, as a member of the Armed Services Committee, to support beefing up the security at the bases through an expansion of American training of Philippine officers in this country, and expanded training programs there, and through provisions for improved communications equipment and improved weapons directly related to the security of those bases.

I personally intend to support military assistance to the Philippine Government, not on the basis of the outcome of the election, but on the basis of what is done to professionalize the Army.

I think if progress can be made in getting rid of the over-staying generals, in moving up the young, quality leadership, I think the best thing we have going for us in the Philippine Army is the strong, well-trained cadre of majors and lieutenant colonels who are young, aggressive, and very professional.

I think, to the extent that they can move to the forefront of leadership, as far as military aid is concerned, in dealing with the Communist insurgency, that is the most important element that we have to insist on in providing military assistance.

I think our success in fighting off the Communist insurgency will depend in large part on not only the reality but the perception of free and fair elections by Philippine standards.

Senator KERRY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Kerry.

Thank you very much, Senator Gramm. We appreciate your coming.

Senator GRAMM. Thank you, Mr. Chairman.

The CHAIRMAN. The Chair would like to call now to the witness table Keith Schuette, executive director, National Republican Institute for International Affairs, and Mr. J. Brian Atwood, executive director, National Democratic Institute for International Affairs.

Gentlemen, we welcome you. We appreciate the service that you have performed as persons astute in political affairs, but in this particular instance as observers who will offer testimony in behalf of the foreign policy of our country.

I would like to ask each of you to attempt to contain your initial comments to a 10 minute timeframe. We will not be rigorous about that if there are points that really need to be made, because our purpose today is to hear the information that you have gleaned, and we will attempt to gain a thorough understanding through your initial testimony and through questions of members of the committee.

I would like to call first upon Mr. Atwood for testimony, to be followed by Mr. Schuette.

STATEMENT OF BRIAN ATWOOD, EXECUTIVE DIRECTOR, NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

Mr. ATWOOD. This indicates the bipartisan spirit with which our delegation has pursued its work, Mr. Chairman.

I thank you very much for the opportunity to testify today on our visit to the Philippines, and we hope that we can be helpful to this committee in making decisions relating to this election.

I want first to introduce some people in the audience who participated with us on our side: Mr. Curt Wiley, of the National Democratic Institute, who was with us on this trip, and Mr. Larry Garber, who represents the International Human Rights Law Group. Mr. Garber has observed many, many elections and has made assessments and was very, very helpful to us on this trip.

We have submitted a comprehensive report on our visit and we will summarize our findings here.

We represent institutes whose purpose is the development of democratic institutions. There is no more important institution in a democracy than an election, which is a free and fair expression of the people's will.

It has been our thinking all along that if there is, indeed, a chance that the expression of free will can occur on February 7 in the Philippines, we should do our part to help bring that about.

We are announcing today that we have begun the process of organizing an international delegation of at least 40 members to observe and evaluate that election.

We did not arrive at this decision lightly. We are painfully aware of the difficulties Philippine authorities have had in conducting past elections. Even the 1984 election, reputed to be one of the cleanest in Philippine history, was marked by intimidation and fraud.

In making a decision to go ahead, these factors have most influenced us:

The electoral law that will govern this election provides a sound and measurable demarcation of proper and improper activity.

The procedural safeguards contained in law and regulation are adequate to deter and detect fraud during the balloting and counting phases of the electoral process.

The groups accredited by the commission on elections to monitor this election, particularly the National Citizens Movement for Free Elections, Namfrel, and the Integrated Bar of the Philippines, have the resources to deter illegal activity, the courage to report it when

it occurs and the integrity to evaluate objectively the election's fairness.

The access and cooperation needed by an international delegation to make its own objective evaluation of the electoral process will be provided by these organizations and by local and national officials.

Finally, the large number of Philippine citizens who are dedicated to democratic principles and who believe deeply that this election can bring a return of political stability to their country has impressed us deeply.

In sum, we think we can make a difference in support of those who believe that this is the acid test for democracy in the Philippines. We have been asked for help by people on all sides, people who believe that foreign observers might deter those who would be carried away with exhuberance on behalf of a particular candidate, and those who would try cynically to thwart the will of the people by tampering with the electoral process.

We recognize that many feel that a free and fair election is not possible when a president who imposed martial law and suspended democratic practices remains in power and is one of the candidates.

President Marcos does have tremendous advantages in this election as a result of his incumbency. But the decision whether to contest this election is not ours; it belongs to Ferdinand Marcos, to Cory Aquino, and to the Filipinos.

There will be an election on February 7. Theoretically, the same rules apply to both sides. However imperfect, it is the only game in town.

We found few absolutes in the Philippines, far fewer than we have found here in commentary about the situation. This will not be a perfectly fair election. We have not had many perfect elections in the world's experience. The question I ultimately will ask myself about this winner-take-all election is whether the will of the majority of voters has been served.

If that majority will is thwarted by intimidation or fraud, then the consequences will be severe. Political stability is not achieved by governments which gain power by illegitimate means.

Having decided that we will send an international group to the Philippines, we should also emphasize that we will be watching events closely in the next 2 weeks. We will not hesitate to cancel our plans abruptly if developments make the conduct of a fair election impossible or threaten the ability of our group to do its work.

In this regard, it is my personal view that the resolution governing foreign observers issued by the commission on elections on January 10, when we were there, and reported on recently in the U.S. press, was unnecessarily provocative. The title of the resolution, "Rules and Regulations Against Foreign Intervention," suggests a hostility which belies the official welcome we received from the Comelec and the Philippine Government.

Much attention has been paid to a provision of that resolution which "bars foreign observers from the polling places," as it is most frequently stated in news accounts.

This provision was written many years ago, to control activity at the polling places by listing those authorized to be present.

We had reviewed this law and its impact on our delegation and had concluded before the Comelec resolution was issued that it was reasonable and would not affect our ability to evaluate the election. It is not unlike laws in Great Britain and other democratic nations.

Other provisions of the electoral code give foreign observers ample access to poll watchers, from citizens group, both parties and election officials. In addition, there are no restrictions on our access to canvass centers, where, in the past, pieces of wholesale fraud have been reported.

We did not expect Comelec to permit foreign observers to violate Filipino law. At the same time, we found their decision to refer explicitly to this particular provision very troubling, in particular since they also cited the 1-to-6-year penalty if we violate the provision. And we told them that.

The perception created in this country, in our country, is one of a Government which wants to conduct its election out of public view. This was not what we were told during our visit, and we continue to believe that we will be welcomed to do our job in the Philippines.

We will also watch the continuing effort to work out the modalities of the Comelec-Namfrel relationship. We were assured that nothing would be done to compromise Namfrel's access to polling places and canvass centers. In addition, we felt reasonably confident when we left that the independent nature of Namfrel's "quick count" would be maintained. It must be.

The integrity of Namfrel's monitoring capability is vital if the Filipino people are to have confidence in this election. For our part, we will not depend on any one group for our evaluation of the election. Still, given our limited resources, we simply could not accomplish our task if Namfrel and other legitimate citizens' groups are not permitted to do their job with full and open access at all levels.

This is a difficult challenge, but one well worth the effort.

The flame of democracy still burns in the Philippines, and those who would miscalculate its importance sorely underestimate the people of that nation. There is no more sacred institution in a democracy than the electoral process. It is from time to time the duty of the community of democracies to stand in support of that process. We are fortunate that, through our work with other parties around the world, we are able to take up the torch alongside the democrats of the Philippines

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Atwood.

Mr. Schuette, we are pleased to now have your testimony.

STATEMENT OF KEITH E. SCHUETTE, EXECUTIVE DIRECTOR, NATIONAL REPUBLIC INSTITUTE FOR INTERNATIONAL AFFAIRS

Mr. SCHUETTE. Thank you, Mr. Chairman.

I would like also to introduce the members of the Republican delegation: Mr. Robert Henderson, who is program director at the institute, and Mr. Howard Penniman, who is a senior fellow and an international elections expert at the American Enterprise Institute.

Mr. Chairman, on behalf of the board of directors of the republican institute and our party chairman, Frank Fahrenkopf, I would like to thank you for offering me the opportunity to appear this morning.

I should like first to associate myself fully with the comments offered by my colleague and friend, Brian Atwood. The conclusions and judgments which he has reported are genuinely bipartisan in character and accurately reflect the views of the both the Republican and Democratic members of our delegation.

Mr. Chairman, I wish to make only a few additional remarks regarding the nature of our proposed mission, our hopes, our expectations, and, frankly, some of the risks.

I believe that I speak for our entire delegation in saying that the institutional support for democracy in the Philippines is as deep and as broad as any that we have seen in the work of our two institutes. The single greatest asset of any society is its people, and the Filipino people are both mobilized and organized in their efforts to conduct a free, fair, and representative election.

A wide range of local and national institutions—trade unions, the Jaycees, Rotary, women's clubs, religious and business groups—have sought for themselves appropriate roles in the electoral processes unfolding in the Philippines.

Ultimately, it is these groups and these people who must determine for themselves the nature of the upcoming election and, of course, its outcome.

In our work in a number of democratic transition states we have collectively not seen a society more in need of, nor perhaps more prepared for, a successful transition to fully democratic government.

The logical corollary of this assertion is best phrased as a question: Can there be free, fair, and representative elections in the Philippines under current circumstnaces?

The answer is neither easily rendered nor easily proven at this stage.

Our delegation and our boards of directors have accepted the premise that the necessary safeguards exist in terms of laws, procedures, and citizen vigilance to conduct a free and representative election in the Philippines, though no one can offer guarantees in this regard. Laws and procedures ultimately depend upon those who enforce them for their effect.

We have concluded that if the current laws and procedures are enforced fairly, honestly, and without partisan distinction, the February 7 elections can be representative of the national will of the Philippine people.

We further believe that our proposed mission will have both the necessary access and the appropriate sophistication to make a responsible determination in this regard.

For this reason, we have determined to send an international delegation to the Philippines for the February elections. We make this decision with our eyes wide open.

We believe it is essential that our mission, and any international missions which might also undertake this effort, operate in consonance with the major Philippine institutions which must ultimate-

ly judge the validity of these elections and, more importantly, live with the result of these elections.

We do not expect our delegations to render snap judgments nor, for that matter, to state with 100 percent certainty that no fraud took place on the part of either side. There are over 90,000 polling stations and 91 provincial counting centers in the Philippines, and it is impossible to field a team that can cover all of these locations. Our plans, however, reflect our intention to make random and representative inspections which should allow us to determine larger trends and indicators of the overall process.

We believe that the February elections can and must serve as a means to national reconciliation in the Philippines: A nation deeply divided will have tremendous difficulty in facing the twin national threats posed by the New People's Army and steady economic decline. It is perhaps the most welcome observation of our visit that this view is shared by the overwhelming majority of Filipinos.

Our mission exists not so much to pass definitive judgment on the process, though we will attempt to render a responsible and representative opinion. Rather, our essential purpose is to reinforce those throughout the entire democratic spectrum who have placed their faith and trust in the electoral process.

We take no stand on the outcome for this is a matter for the people of the Philippines alone to decide. Our hope is that the process will be free, fair, and representative, and that our international delegations might say so with confidence and optimism for the future of the people of the Philippines.

Mr. Chairman, these are our conclusions and our expectations. We have submitted to you this morning our more detailed report and are now happy to answer any questions that you might have.

The CHAIRMAN. We are very pleased to have the detailed report and, likewise, your concise summaries.

[The report referred to may be found in the appendix.]

The CHAIRMAN. I would like unanimous consent of the committee that we limit questions of this panel in the first round to 10 minutes each. I would like to proceed with questions to Mr. Atwood, although Mr. Schuette may want to comment. I raise the questions with regard to Mr. Atwood's paper because this raises the conclusions immediately.

At the bottom of the first page, you have stated, Mr. Atwood:

> The electoral law that will govern this election provides a sound and measurable demarcation of proper and improper activity. The procedural safeguards contained in law and regulation are adequate to deter and detect fraud. . . .

What is your judgment as to the political will of the authorities who are involved, either the government, Comelec, or anybody else who is involved, to implement these laws? Even if one takes for granted the premise that enough law and regulation is there and that institutions may be sound, what is the evidence of good intent, of the good faith and desire that this should be an objective and impartial administrative situation?

Mr. ATWOOD. Mr. Chairman, there are serious questions in my mind as to whether that will is there. However, I think that we detected it on both sides of the campaign, that there is an under-

standing that unless there is a free and fair election, unless the word goes out to campaign workers on all sides and officials that they should try to carry out these legal procedures properly, they are not going to have a country that is governable, in essence.

Those are the stakes. If this election is won in what is perceived to be a fraudulent election, then I think both sides who take power are going to have to raise questions about whether or not they can govern the country.

So I think in that sense there is a will.

However, there are some other disturbing signs that indicate that maybe other techniques are being used, as opposed to the procedures that we can observe during election day and before. We are quite disturbed at a number of the reports that we have seen.

We did not hear a lot of reports about intimidation when we were there, but we have heard a number of reports since we left about murders and other such things. These are terribly disturbing, and we hope that when we go back to the Philippines, we will be able to interview people and ascertain what has occurred here and whether the authorities are adjudicating these problems.

The CHAIRMAN. On the second page you have referenced Namfrel and the Integrated Bar of the Philippines as resources which could deter illegal activity and have the courage to report it, as well as the integrity to evaluate objectively the election's fairness. You point out the access and cooperation needed by an international delegation to make its own objective analysis will be provided by these organizations and by local and national officials. In short, I think you made a point which ought to be obvious, but reiterated, that any delegation, yours or a congressional delegation or anybody else's, is going to be very dependent upon Namfrel.

To what extent do we have evidence that Namfrel will be admitted to some 90,000 polling places? How firm is the commitment of the Government, the election authorities, Comelec, whoever is running this, that Namfrel really will be able to operate close at hand and make certain that this objectivity is encouraged.

Finally, as a part of that, is there any evidence that Namfrel officials or volunteers have been bribed or otherwise influenced in a way that, in our dependence upon them, we might be betrayed by their testimony?

Mr. SCHUETTE. Mr. Chairman, we studied at great length Namfrel's plans for the February 7 elections, and some of the incidents that had occurred in 1984. In some of our provincial visits, we spoke to local Namfrel officials who had been legally disenfranchised in 1984 at the last moment, which is to say that they had their poll-watching credentials removed at the last moment, essentially on partisan grounds.

We also heard of instances where entire regions of Namfrel volunteers were not permitted access to the polling places. We discussed this process with the Commission on Elections and received their assurances that were a Namfrel poll watcher to be disqualified for partisan activity, this disqualification would take place in sufficient time to allow a replacement.

This had not happened in certain areas in 1984.

I think we are further encouraged, in addition to this statement, by Namfrel's own assessment of its working relationship with the

Commission on Elections. I think we can safely speak for the senior leadership of Namfrel to say that, by and large, they are satisfied with the level of cooperation which they receive from the national Comelec.

The danger in the process comes, as I think you have correctly identified, Mr. Chairman, at the local level, where the intention of the national Comelec board may or may not find its way down to some of the local elections comissioners.

This is going to be something that our mission will have to watch very closely. In terms of bribery and intimidation, I think we can refer to a phrase that we heard many times: "If our people can be bought, they deserve what they get."

I think there is simply no question—Namfrel plans to field 500,000 volunteers—and there can be just no doubt in any of our minds that one, two, or a percentage of those individuals are going to be either cajoled, threatened, or purchased. This is to be expected.

By and large, we are satisfied with the way that they are proceeding, though any attempt to disenfranchise Namfrel on a national basis or to regularly limit their access will have to be reflected in our judgments.

The CHAIRMAN. Let me follow up quickly on that. The "quick count" situation you have referenced in your report and your conclusions is critical. You recognize that that is so.

You say that for the Namfrel "quick count" must be maintained.

There is a great deal of uncertainty right now as to who is going to be quick counting. Reports that we referenced earlier this morning in my statement were that three papers with strong identification to President Marcos were going to be doing the "quick counting," and not Namfrel.

To what extent can you offer us some assurances, or is this the type of condition for which you mentioned you might cancel your plans? Is this the type of condition that could hasten that cancellation?

Mr. ATWOOD. Mr. Chairman, our office just called Mr. Conception yesterday to find out what the latest was in terms of their negotiations with Comelec. Comelec would like to have Namfrel come in and work with them on a quick count. They have maintained in these negotiations that they must maintain their own independence. They would be perfectly happy to work with Comelec, but they would not accept one particular provision which would give Comelec the right to stop the count at any moment during the electoral counting process. Sometimes, when stoppage occurs or when delays occur in the counting process, that is when some of the fixing is going on.

So, Namfrel is right to stand its ground on that point.

But they would not give in on this agreement. I believe that the Namfrel quick count is essential to detect any anomalies in the counting process.

We have made that position clear. I think it would raise serious questions in our mind as to whether we would go ahead with this mission if Namfrel were not able to do its quick count.

Mr. SCHUETTE. Mr. Chairman, if I might add, I would personally view with great suspicion any quick count operation that did not have the national resources that Namfrel has. In our more detailed report, we explain how the election returns, those tally sheets from each precinct, are distributed. The Namfrel quick count is based on the first copy of the return that becomes available from each precinct. In many cases, that will be the opposition copy, its own copy, or, indeed, the KBL copy.

I would be, frankly, very interested to hear from the newspapers themselves how they would deploy sufficient people around the country to develop immediate access to that and to either Telex or radio those reports back.

I think that would be a highly suspect count, simply because it would not have the distribution that Namfrel could offer.

The CHAIRMAN. Let me ask you this question.

You have addressed the 50-meter rule with regard to international observers, and you found that that is not as serious a problem as others have suggested.

Is your confidence based simply upon the administration of this rule and Namfrel and the opposition watchers who then feed information to anybody who is 50 meters beyond?

Would you try to give us once again some reason why this is not so big a thing as we have been led to believe.

Mr. ATWOOD. Mr. Chairman, again, it relates to Namfrel's access to the polling places and the opposition party's access.

We have been assured that we can interview all of those people who have been in the polling places. Presumably, they will be objective, or at least they will be providing a particular point of view.

We are going to concentrate, because of the limits of our resources, on what I would call wholesale fraud attempts. In this election, which has 27 million voters, the average precinct has only 300 voters. We think that if this election is going to be won or lost by fraud, it is going to happen during the counting stages, where we have been offered full and complete access, to look at any disputes over electoral returns, et cetera.

I told people at the Philippine Embassy yesterday that I did not think that our prominent group of international observers—which, by the way will have former prime ministers and is a very prestigious group—was going to carry a tapemeasure around with it to be sure that it is not within 50 meters of these polling places. I was assured that we would be cooperated with and that we would be treated with the identification that we'd need.

I think this law in the past has been honored as much in the breach as it has, frankly, in its being carried out. It's been ignored.

I think that the reference to the law and the resolution was a gratuitous comment. I think that the members of the Comelec who insisted on referring to that law probably regret it now as a result of all of the publicity it has gotten.

The CHAIRMAN. Thank you very much.

Let me ask Senator Biden if I may recognize Senator Dodd?

Senator BIDEN. I will wait until the end, Mr. Chairman.

The CHAIRMAN. Then I will do so and will get back to you.

Thank you.

Senator Dodd.

Senator DODD. Thank you, Mr. Chairman. My apologies to you and to the witnesses.

We had two nominees for the Federal Reserve Board before the Banking Committee this morning, and I was tied up there during the first hour or so.

I would like to take just a couple of minutes, if I could, to make an opening statement, Mr. Chairman, and then I would be willing to defer to others who have been here longer than I have for what questions they may have.

Mr. Chairman, for years I think many of us in this committee and in the Congress have suspected that President Marcos' claims that he was a democratic leader, a champion of democratic values and traditions, frankly were a sham, that this was a conclusion that was false and without any foundation or basis whatsoever.

As a practitioner of democratic principles, President Marcos certainly left an awful lot to be desired.

However, on the other hand, Marcos, as the military hero, always seemed far more believable I think to many of us. The uniform, the ribbons, the medals, the stories about a guerrilla fighter, a resistance leader against the Japanese occupation during World War II, a nationalist and a patriot, were certainly far more plausible. But, alas, Mr. Chairman, that also turns out to be a sham.

This morning's "New York Times" story reports vividly a report concluded by the U.S. Army at the conclusion of World War II, which makes it clear that, rather than being accorded a hero's status, something Mr. Marcos has referred to almost without exception in every political speech he has given since he has held public office, was a lie. He was probably more deserving of at least a dishonorable discharge, perhaps even a court martial or even a prison term, given some of the allegations raised in the Army's conclusions.

In the end, Mr. Chairman, I think that President Marcos, the hero, is as much a fraud as President Marcos, the democrat.

How does this all relate to the hearing here this morning?

It seems to me that, in light of this particular report—and I would like to make a request of the committee. Obviously, we do not have the time between now and February 7, but it seems to me, without any question, we ought to try to find out why it was that this report was either not better known, why it had not been made available earlier. Apparently, in 1983, a request was made to have access to that information. The individual seeking that information was denied access to it on the grounds that it was a matter of privacy to Mr. Marcos, even though, obviously, the question of foreign aid and our commitment to that country should have in some way, it seems to me, depended upon our having all the information necessary to draw those kinds of conclusions, including this report.

I would just ask, Mr. Chairman, if we could, at some point in the not too distant future, get some sort of briefing or hearing on exactly what the status of this report was and why it was that we did not know more about it.

Again, I am not trying to do that before February 7. I think that may be impossible.

But it seems to me that we ought at least to know more about this than we presently do.

At any rate, my own conclusion is this. When I see this kind of report and then hear from our witnesses and know as a result of announcements made in the Philippines that we are not going to be able to have the kind of observers, press, or government officials, or TV coverage, the lack of it for the opponents' commercials, the computerized vote counting dropped, Comelec vacancies not filled and the like—I don't see how in any way we can expect anything but fraud, widespread fraud in this election.

I think if Mrs. Aquino emerges victorious in this process, it would be nothing short of a miracle. My hope would be that this is not the case, but I don't know how anyone can draw any different conclusion based on President Marcos' behavior and the lie he has told for four decades about his own personal background and career. That would destroy any other political figure in any other country, and we have known about it for a long time.

I regret having to draw that conclusion this morning, but I don't know how anyone can reach any other conclusion. I think we are just hoping beyond hope that something other than what we all know is going to happen is, in fact, going to happen.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Dodd.

Let me sort out the parliamentary situation for the moment.

I have asked 10 minutes of questions and Senator Dodd gave an opening statement. That should not count against his opportunity to ask questions.

I will now recognize you, Senator Pell, for your period of questioning and then we will proceed in that way back and forth.

Senator PELL. Thank you very much, Mr. Chairman.

It would seem to me that what we have here is a situation not very different from what we have had in some of our metropolitan communities. I can think of my own State—in past years, many years ago, thank goodness, when one party would count another out until the number of ballots that were cast on the side that was being counted out became overwhelming, and then they were finally counted in.

What we have here is, to my mind, a somewhat similar situation.

I am curious if you would agree or disagree with that analysis of it? In other words, in all likelihood, if it is a close election, it will go the way we know it will go; but if it is an overwhelming vote against President Marcos, then there will be no avoiding counting those ballots?

I am just curious as to how this rough and ready thought was not dissimilar to my capital city of Providence, 50 years ago, and certain other cities around the country—I will not be specific.

I am wondering what your reaction is, gentlemen, to that thought.

Mr. ATWOOD. Well, I think you have hit the nail on the head.

I think neither side would like to commit fraud during the balloting and counting phases of this election because that is when it is most detectable, because of the procedures they have set up.

However, there is an awful lot at stake here, and that is why, when we get to election day, we feel that we have to be there, that others should be vigilant, and that it is possible that some of that fraud that may occur on that day can be cut down.

As I indicated in my statement at the outset, the real reason for an election is to make sure that the national will is expressed.

It is conceivable in my mind that a 20 to 30 percent fraud factor would occur on election day, and yet a party could win by 1 percent and the national will has been expressed. Even if those 30 percent have been disenfranchised as a result of fraud, the election could still be an expression of the national will of the people of the Philippines.

That is why we have decided to go, and that is why we would encourage others to go.

Senator PELL. Thank you.

Mr. Schuette.

Mr. SCHUETTE. I think I share the views of Mr. Atwood.

I think that there is a great potential for the type of activity that you discuss. It may indeed occur.

We heard statements throughout our visit that both sides are in need of a landslide in this election.

President Marcos requires a landslide in order to convince the world that he won an honest election, and the opposition requires a landslide in order to actually win the election.

Senator PELL. I think that is a very correct remark. I think you are right.

Mr. SCHUETTE. Again, we are operating with our eyes wide open. With 90,000 polling places, with 300 votes at each polling place, there are certainly things that can take place at the local level. But we are confident that in the counting process, where one is dealing with 27 million voters, it is a very complicated counting process and one which is not easy to rig.

There are duplicate copies of election returns, which can be compared with originals. There are strict procedures for adjudication of disputes. It would be our intention to focus our efforts on that counting process, along with Namfrel and the Integrated Bar of the Philippines, in an attempt to watch how those disputes are resolved and how those issues are brought forward.

We remain optimistic, but optimistic in a very, very realistic sense.

Senator PELL. What is your own impression, gentlemen, as to whether the Philippine Government really wishes to have observers or not?

Have you detected a sentiment in either direction?

Mr. ATWOOD. We have been welcomed by President Marcos publicly. He said it on American television. He said it again to us when we were there.

I must say, however, that there were a number of people, politicians in the Batasan who were giving speeches indicating that they were concerned about foreign interference.

I mentioned in my statement that I did not like the way the Comelec resolution was worded. It could have been called the resolution to guide foreign observers. Instead, it was a resolution against foreign intervention.

I think it is clear that there are some people, perhaps on both sides, who do not want foreign observers there. It simply reinforces our desire to be there.

Senator PELL. I think we have to visualize the difficulties of the job. If you have to be 150 feet away, that would be twice the length of this room, and it would be very hard to observe even the physiognomies of those in the polling places. I can merely detect the people in the back of the room, but I cannot see them very clearly. If we are twice that length away, it would be very difficult indeed.

How will you handle that obstacle?

Mr. SCHUETTE. Senator, I might note that particularly the two experts on our team, Mr. Garber and Mr. Penniman, who have been involved in this activity for some time, have pointed out, and we have studied this issue, the following: there are only so many things that can be done inside a voting booth, and I probably will not go into all of those in this session. [Laughter.]

Historically, the greatest majority of fraud has been at the wholesale level. There are techniques that are used to intimidate voters. There are issues of an envelope with carbon paper in it and a representative of one or another interest in the election who wanted to purchase a vote would go to an individual and say to take this carbon paper into the booth, put it underneath the ballot, fill it out, and if you bring that carbon paper back to me and it is the type of vote that I can support, I will support it well.

That type of activity can be noticed, can be seen, and we feel deterred within 150 feet.

Additionally, one of the main issues that had been raised in the 1984 election was the presence near the polling stations of armed Philippine Constabulatory soldiers or members from the Civilian Home Defense Force.

Our delegations, though 150 feet away from the polls, will certainly be able to detect that.

As to counting procedures and things that take place inside the actual balloting station, we will have to rely on the poll watchers—UNIDO, the KBL, the Namfrel, the teachers—and we feel somewhat assured that, with that board, the Citizens' Election Board, we will be able to develop an accurate picture.

Senator PELL. Thank you.

Are you visualizing the Philippine Government as interfering in the electoral process, or do you believe that the restrictions are acceptable?

Mr. ATWOOD. We have accepted it.

I might point out that other countries have imposed the same restrictions. They are not posed as restrictions, but they are posed as efforts to try to control the confusion at the polling place. It is true in Great Britain and it is true in many places in this country. We have to accept what has been Philippine law for some 10 years now.

Senator PELL. Finally, do the military have a vote—the soldiers? In some South American countries, when they have elections, the military is not permitted to vote.

What is the case in the Philippines?

Mr. ATWOOD. Yes, they do have a vote.

One of the issues is whether they would be allowed to have precincts within military camps. That would be a violation of the electoral code of the Philippines, and we were assured that the Comelec was taking action to prevent that from happening.

Senator PELL. Thank you very much.

I have no further questions.

The CHAIRMAN. Thank you very much, Senator Pell.

Senator Pressler.

Senator PRESSLER. I might just direct a few questions here to understanding the nature of the group that is going.

I have said earlier that I am pretty much opposed to seeing an official U.S. Government delegation go, especially in light of the fact that I believe your group will be sending 40 people who will be writing a report.

I am just trying to get to the base of how you will be viewed there.

Would you briefly tell us how the Institute for International Affairs is funded? What percentage of it is taxpayer dollars? What about the group that is going? How will their expenses be paid?

Mr. SCHUETTE. Senator, both our institutes are affiliates of the National Endowment for Democracy, and we both receive the vast majority of our funding from the National Endowment for Democracy which, as you know, receives its funding from the Federal Government through the U.S. Information Agency.

The mission that we are proposing will be a mixture of funds from three sources: the Agency for International Development, the National Endowment for Democracy, and private funds which each of our institutes have raised.

Senator PRESSLER. So, basically, it is taxpayer funded?

Mr. ATWOOD. Yes, Senator. We received the tremendous endorsement of the U.S. Senate by the margin of one vote a few months ago.

Senator PRESSLER. I know. I am well aware of that.

I just want to establish for the record that, although this is not an official U.S. Government institution, it is financed by the U.S. Government.

Mr. ATWOOD. It is a mixture of funds, yes.

Senator PRESSLER. A mixture of what funds now, what percentage of funds?

Mr. ATWOOD. Private funds and public funds.

Senator PRESSLER. OK. How much private funding? Just give me a breakout. I am not trying to put you in any bad position. I am just trying to get the facts, that's all.

Mr. SCHUETTE. Of our overall budget, sir, I think it would probably be on the order of 80 percent Federal funds and 20 percent private funds—somewhere in that range. We have not finalized our budget altogether yet, but I think that is a fair estimate.

Senator PRESSLER. Fine.

Now, who are the 40 people that you are sending? You don't need to name them. Just give us a rundown, roughly.

Mr. ATWOOD. Let me say that we are planning to bring 40 people, 20 from each side, and at least half of them will be foreign, or non-Americans, I should say.

I am pleased to announce today that John Hume, of the Social Democratic and Labor Party of Northern Ireland has agreed to head the delegation on our side, and we will have a former Prime Minister of Barbados, the current International Secretary of the Acion Democratica Party of Venezuela, a senator from the Liberal Party of Canada, and we have invited a senator from the Labor

Party of Australia, the Attorney General of Gambia. Those are the kinds of people that we have invited. In some of these cases, they have already accepted. In other cases, they are just getting clearance from their parties.

They are basically party leaders.

Senator PRESSLER. They are non-U.S. citizens.

Mr. ATWOOD. They are non-U.S. citizens.

Senator PRESSLER. Will there be any U.S. citizens in the delegation?

Mr. ATWOOD. We will have U.S. citizens as well.

Senator PRESSLER. And who are they?

Mr. ATWOOD. Democrats and Republicans.

Senator PRESSLER. Who are they?

Mr. ATWOOD. We have not made any final determinations on that yet. We have talked to a lot of people, and they are basically prominent people who have been involved in elections in this country, such as lawyers. We would like to invite the people who went over with the Center for Democracy Group, for example, and in my case we have invited some of them. I think Keith has as well.

Senator PRESSLER. On the Republican side, just give me a quick rundown of what people you have committed to go.

Mr. SCHUETTE. Our delegation will consist of—and I can't give you the names yet, sir, I'm sorry—we will have a delegation from the Conservative Party of Colombia, an official delegation from the International Democrat Union, which is the conservative international. We expect to have two representatives from France, another from Greece. We have confirmation from the National Party of New Zealand, and we expect to hear shortly from our associates in Australia. And then, similarly, there will be a United States component of elections experts, political experts, and those with expertise in the Philippines.

Senator PRESSLER. Are you going to write your report right there in the Philippines? What is your specific plan for reaching your conclusions? When will your conclusions be reached? Obviously these people are going to be scattered to the four winds by the 9th or 10th of February, I suppose.

What is the plan of action?

Mr. ATWOOD. We are not going to engage in instant analysis of this. This is likely to be a highly complicated situation.

We will keep people in the Philippines to follow leads, allegations, to check them out, to await the decisions of other groups, and we will be rendering a decision after we have been able to analyze all the facts.

Senator PRESSLER. And when will that be?

Mr. ATWOOD. A few weeks after the election, undoubtedly. It really depends on the delays in the electoral process itself. The proclamation could be delayed for 45 days after the count is received by the Congress of the Philippines.

Senator PRESSLER. OK.

So you do not have a specific plan of action as to how you are going to proceed.

If you conclude that it is a fradulent election, will you have a vote of all the members?

Mr. ATWOOD. We will obviously send our report to the members and they will——

Senator PRESSLER. But who is going to write the report?

Mr. ATWOOD. We will take the lead, I am sure, with the two Chairmen of the delegations, Mr. Hume and whomever the Republican side chooses.

Senator PRESSLER. So we don't yet know who is going to write it? You don't know the procedures you are going to use to decide?

Mr. ATWOOD. We will take the lead in that. We will do that.

Senator PRESSLER. Who is "we?"

Mr. ATWOOD. Our two institutes will work together, just as we did at great length to produce this document [indicating]. It is not always easy to work on a bipartisan basis, but we managed to do it in this case.

Senator PRESSLER. So you are going to write it and it will be circulated and you can either agree with it or disagree with it—is that the thought?

Mr. ATWOOD. That's right.

As we did in the case of the first phase of this mission, there will be specific terms of reference as to how we will proceed here. We are working on those now.

Senator PRESSLER. Do you see a problem here? We don't know what the scenario will be, but let's say President Marcos wins the election and you conclude that it has been fraudulent in your paper.

Then what do you expect to happen?

Mr. SCHUETTE. Senator, as we undertook the first stage of this mission, we recognized that there may be some very, very difficult choices before us. We have determined that we will be guided by objectivity.

We had been asked, are we prepared to stand up in front of the world community and to declare the election fraudulent, particularly when it is a country of such close friendship and great strategic importance to the United States?

We believe that our verdict or our opinions are more importantly part of the chorus of opinions from the Filipinos themselves.

Senator PRESSLER. Are there other American groups sending observer groups, that you know of?

Mr. SCHUETTE. None of which we are immediately aware.

Senator PRESSLER. So what chorus will there be?

Mr. SCHUETTE. Of Philippine organizations.

It is less important what our delegations perceive than it would be for those institutions within the Philippines—the KBL, UNIDO, the Bar, the Jaycees, and Namfrel—who must ultimately make that decision.

We would not want to rush out immediately and render a snap judgment based upon the small picture—it is necessarily small—that our delegation will see. It is our intention to wait and to produce a reasoned report, as Brian mentioned. The proclamation can take up to 45 days, and in any event, must occur within a year. If there are legal challenges to certain aspects of the balloting, it could be some time.

I think it would be very, very difficult for us to issue a statement that said this election was procedurally correct only to find that

the victor, whomever that might be, was not allowed to take office or was not allowed to remain in office.

So I think we will be prudent in that regard. But I think we can be confident of our result.

If it is fraudulent, if the margin of fraud to our delegation exceeds the margin of victory for either candidate, then one would have to conclude that the national will was not represented in that process.

My expectation is that we will not be the first to render that judgment.

Senator PRESSLER. Mr. Chairman, I might use the remainder of my time to say that I have read the article in the New York Times, though I have not read it real thoroughly. I have it here in front of me. It's about Marcos' military record.

Now I know nothing about that, but I would like to make one observation. An Army captain is quoted in this report, but in no place here does it say if he is dead or alive, I don't believe. It doesn't interview him, while it does interview several other people who served there who have a negative view of Mr. Marcos. The article does conclude that he did fight with our troops at Bataan—there is no question about that.

But there is sort of an omission in this article, unless I am missing it here, about the captain who wrote the report, apparently nobody made an attempt to interview him.

I think it would be very useful to know if the person is still alive, if we could find out whether this sort of form was just a routine thing that was used to reject requests for pay and benefits. At that time, there was a pledge to pay Filipinos if they apparently had a guerrilla unit.

Having been a first lieutenant at one point myself, anything signed by a captain is not a very high level decision, very frankly. They used to say, don't take anything seriously unless it's signed by a colonel at least. [Laughter.]

I find it passing strange that this whole article does not at any point say whether the captain who wrote it is dead or alive, whether they attempted to interview him, or whether he wouldn't be interviewed. Maybe I missed it. Maybe it is in here somewhere. I don't have my reading glasses on.

But this captain, what's his name, who wrote this, Capt. Elbert R. Curtis, an Army captain, is not interviewed in here anywhere. It may be that this form was used as a standard form to just reject a lot of claims because the United States had promised to pay back pay and benefits as if they had been members of the American military. That would be pretty expensive.

I imagine there was an incentive here. But there is not any question of Marcos serving in the Bataan area.

But I am not going to get into a big argument about his military record. But, since it was mentioned here, that is a very strange omission from this article, and it seems that our media has already reached its conclusions not only about this, but that the elections are going to be fraudulent.

So I hope this group gives a balanced report because I do not think we can rely on the U.S. media to give a very balanced report, in my opinion.

Senator DODD. If the Senator would yield, despite who Captain Curtis may be or may not be, despite whether or not we like the story, the conclusion of this report, in the late 1940's, was not made for benefits. This was not just an application for benefits.

It says, the pronunciation of the unit there, that the alleged command of Ferdinand Marcos is fraudulent. That is point 1. Point 2, the insertion of his name on a roster other than the U.S.A. FLIP, or whatever it is, roster was a malicious criminal act.

Now that is not an application for benefits.

Senator PRESSLER. Well, let me say don't you think it is strange that Captain Curtis is not——

Senator DODD. That is strange. That is strange in itself.

Senator PRESSLER. But wouldn't it be good to talk to Captain Curtis.

Senator DODD. But that's irrelevant.

Senator PRESSLER. At no point in this article is Captain Curtis interviewed.

Senator DODD. The fact is you have a report that drew a conclusion in the 1940's that said this guy is a fraud. He has built his entire political career on a military record that is a sham.

Senator PRESSLER. But the article goes on to say that he did serve in the Bataan peninsula.

I am not well enough familiar with this whole debate to debate it here. But I found it strange that in the whole article, although several former military 68 year old people who served and so forth who are critical of Marcos were interviewed, this captain is not interviewed. I think it would be very useful to send him a letter.

Senator DODD. I don't object to that.

But I don't think you ought to draw the conclusion that this was merely an application for some benefits.

Senator PRESSLER. The point I am making is that there are a lot of forms used in the Army, as you and I both know, that sound very draconian.

Senator DODD. But I rarely have seen anything this definitive either. [Laughter.]

Senator PRESSLER. I am not in any way defending his military record. I am not defending it.

The CHAIRMAN. Let the Chair try to sort this out a little bit again to suggest that there is interest obviously in the report and in everything that is occurring in the Philippines now. We will ask staff on both sides to take a look into both the article and other material so that we can all be as well informed as possible.

Senator DODD. That is all that I had requested, Mr. Chairman.

[The information referred to follows:]

In response to a request for information from the Committee, the Department of Defence advised that Captain (Field Artillery) Elbert R. Curtis was Chief, office of the Chief of Staff (G-3), Headquarters Philippines Ryukus Command, Manila, during 1947-48. According to the Department of the Army records, Captain Curtis retired from military service in 1969 and has subsequently died. No further investigation into Captain Curtis' views on the war record of Ferdinand Marcos is therefore possible.

The CHAIRMAN. Let me mention also, in sorting out equity here, I overlooked Senator Murkowski and I apologize. He has not given his opening statement.

I am going to ask him to make those comments now. They will not count against his questioning time.

After that, I will recognize Senator Biden for his questions.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I will be very brief.

I would share with my colleagues the frustration that we are currently experiencing. Mr. Chairman, you are to be congratulated on your commitment to provide a forum, and the forum which is a recognition that we ought to be doing something. We initiated it with the action by the Center for Democracy, which issued a rather extensive report, and was followed up by the institutes' visit.

Whether it is a question, Senator Dodd, of the legitimacy of Marcos' military record, these are all things for the Philippine people to decide. Our obligation, as we have all agreed, is not to the current government of the Philippines, but, indeed, to the Filipino people.

It is very enlightening to observe the process before us as we attempt to insure free elections without interference. Yet there is the grave suspicion that, without interference, there might not be free elections. While it is appropriate, I guess, that the legislative branch address this matter, reality dictates that it is really in the hands of the administration, through their appropriate people, who are in contact officially with the Philippine Government. I am afraid that we will leave these hearings about where we started, with good intentions, but with the knowledge that we are really not practicing what we preach in the sense of noninterference. As we observe the risks associated with the elections and the comments that were made a few moments ago about whatever findings that come out, really, it is the dictate of the Filipino people that is gong to make this thing either work or not.

The question that I know you are reflecting on is whether it is appropriate to have observers there.

I had an opportunity last week to be in the Philippines. I met with our Ambassador, Steve Bosworth. We had some very, very lengthy discussions about the problem and the ultimate outcome. The destiny of the Philippines, and our own interests. Whether you talk about security at Clark or Subic, you are talking about some very, very major problems to insure the security of those bases.

I would think, Mr. Chairman, that we to a point where we are going to examine virtually every possible exposure from the standpoint of how we insure free elections. But, in reality, our hands are going to be tied if, indeed, we maintain our present course of action, which is an appropriate one, that we do not interfere in this process.

I guess that is just the price that we have to pay as a democracy. As we reflect on our intervention in other areas of the world from time to time, whether it be helping establish a democracy in Korea, with the presence of 40,000 United States troops there, or our current situation in the Philippines, with an intense interest from the standpoint of our own national security, we must recognize that the will of the people will be reflected at the polls regardless of the Communist insurgency in the Philippines.

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It is very, very difficult to establish an appropriate role for the United States without interference. That is why I am particularly looking forward to hearing the witnesses from the administration who are basically charged with an extraordinary responsibility of walking a tightrope, if you will, of no intervention, yet maintaining a relationship that we have enjoyed for a long time.

The CHAIRMAN. Thank you, Senator Murkowski.

Senator Biden.

Senator BIDEN. Thank you, Mr. Chairman.

I have no opening statement. I came to listen and have no questions at this time.

The CHAIRMAN. Very well.

Senator Murkowski, you are recognized now for your questions.

Senator MURKOWSKI. I have no questions.

The CHAIRMAN. All right.

Senator Dodd is recognized for questions.

Senator DODD. Mr. Chairman, let me first of all commend the group. They have done an excellent job, and I might add under very constrained time elements. I know the committee appreciates their effort and work here.

I would just say in response to my good friend from Alaska as well, in raising this particular question which appeared this morning, that I cannot help but feel as though the political landscape of the Philippines might have been dramatically different over the last 40 years had the rather strident conclusions reached by people who were obviously aware of the circumstances been made public.

We have heard of people in our own country who have run around claiming heroic military records and had the public find out otherwise, and we know what has happened to them very quickly.

I raise that as an observation.

Second, while I don't disagree with you, obviously it is the Filipino people who have to decide these things, and noninterference is the case. I am not sure, and I don't know the answer to this yet, how a record like this over 40 years remained squirreled away, despite the fact that some people tried to get it out as late as 1983 and were told they could not because the laws here protected the privacy of Mr. Marcos.

That, if you will, is not what I would call noninterference, in effect, at least under our system of government.

I think those points in relationship to the credibility and reliability that we can expect over the next few weeks before this election become very, very important.

I would just as well get to the administration witness, Mr. Chairman, too. But I want to thank our witnesses who have been here already this morning and to once again commend them.

I think they have done a remarkably good job. You had a one vote margin with the Institute this year. But I think this kind of effort, this kind of record that you are building will demonstrate how worthwhile this effort is. Putting together an international delegation of observers from democratic countries is exactly the kind of thing this country ought to be taking a leadership role in. It is a modest expense to be making for the kind of leadership that we ought to be taking on these kinds of issues.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Kerry.

Senator KERRY. Thank you, Mr. Chairman.

I join my colleague, Senator Dodd, in expressing my very deep concern about the story that we read today, not for the reasons that Senator Murkowski has cited about interference, but because I share with him a deep concern. I think there are major policy issues at stake in trying to determine why it is that this kind of information did remain squirreled away and what it says about who we decide to support and not support and why it has suddenly surfaced now in conjunction with other stories that are surfacing about Imelda and Ferdinand Marcos' holdings in New York City and the potential diversion of American funds which were meant to benefit the Filipino people. Given the salary of the President of the Philippines and his lack of assets prior to assuming office, to have some $350 million worth of real estate holdings in New York City raises a serious issue about things we have been hearing about for a long time but of which we have not had proof.

I concur with my colleague that it goes to the question of the willingness of Marcos to relinquish power and what the nature of these elections will be.

I do want to ask a few more questions about this process because you have sparked my curiosity and I think it is terribly important to be able to really understand where we are going in an observer process.

I take issue a little bit with my colleague, Frank Murkowski, because we have made it a matter of U.S. foreign policy to determine whether or not these elections are open and free as a matter of helping us to decide what we will do in foreign aid.

It is the law of the land that we passed last year stating we are going to make a determination as one of the criteria by which we will judge whether we will give aid whether or not there are open and free elections.

So, apart from trying to leverage a return to democracy and apart from trying to be involved in what is happening there, this is an important part of our ability to be able to determine what we should or should not do as a matter of policy in the course of the next year.

Therefore, I think it is wholly and totally appropriate that we take every step possible to make that judgment with the best evidence and the best input possible.

Now you sparked my curiosity because you said—I don't know whether it was you, Brian, or your colleague—three things. You said the electoral law governing the election process is adequate for the conduct of a free and fair election.

You said that a group accredited to monitor the election has the resources to deter, the courage to respond, and the integrity to do so. And you said that a large number of Filipino people want a free election.

Therefore, you drew the conclusion, that, in sum, we think we can make a difference.

Now I'm not too sure how I see, given the fears that were expressed and raised by the Center for Democracy on December 18

and the things that we stated in response to it had to happen as preconditions to a fair election, that your three assumptions about what is in place and what is there actually lead to the conclusion of optimism about this election.

Therefore, let me ask you this, more specifically.

Going back to December 18, we raised an issue here about the lack of a new watermark on the ballots, that the ballots would be old ballots, and that this subjected them to fraud. We said let's see if there is a way to deal with this issue.

Now—yes or no—it is my understanding that nothing has been done to change the status of old ballots being used.

Is that correct?

Mr. ATWOOD. New ballots have been printed. However, they have used the same watermark that was used in the 1984 elections.

Senator KERRY. So the potential for fraud which we expressed concern about on December 18 still exists there?

Mr. ATWOOD. There is a possibility, since the watermark machine was not guarded for about 8 days, between the time Marcos announced the snap election and the time Namfrel gained control or began to monitor the situation, where the machine that produces the watermark was out of touch. No one knew where it was.

So there is a possibility that duplicate ballots, or, more important, duplicate electoral returns have been printed up.

Senator KERRY. So we are operating with no safeguard there.

Mr. ATWOOD. Well, there are safeguards elsewhere in the process.

Senator KERRY. That is something we will get to subsequently.

The next area was "Operation Quick Count." As of December 18, there was no funding, there was no training, there was no equipment purchased, there were no data entry people hired, there were no contracts signed. And, as of today, we are discussing whether or not three newspapers, owned and operated by Marcos' cronies and relatives, are going to do the quick count. That is being debated openly 2 weeks before this election.

Is that correct?

Mr. SCHUETTE. Senator, in the Center for Democracy Report, there is discussion of Operation Quick Count, which is a Namfrel activity, and the proposed Commission on Elections Operation Super Quick Count, which was to be the highly computerized system. That Comelec Operation Super Quick Count has been abandoned.

I think, were you to speak to the opposition, to Namfrel or any of the other people who are concerned about fraud, the view the abandonment of Operation Super Quick Count as a positive development. They were not at all certain that the resources, the technical capability, could be put into place nor, frankly, that they, the monitoring groups, poll watchers and other organizations, would have the sophistication to determine whether the signals that were being sent up to the satellites and then down to Europe and then back over to the Philippines via Los Angeles——

Senator KERRY. I understand all that. But deal for a moment with Namfrel's ability for a quick count. That is really what is at issue here.

Namfrel certainly wanted to have a computerized operation, et cetera, in place—correct?

Mr. SCHUETTE. At the time of our visit, the Namfrel leadership said that they were pleased that Operation Super Quick Count, the Comelec——

Senator KERRY. I understand that. I am not asking you about Operation Super Quick Count.

I share their pleasure that it is not going to exist. I am trying to get at quick count. Forget about Super Quick Count. Just consider quick count.

Mr. SCHUETTE. Computers are not an essential part of Namfrel's quick count.

Senator KERRY. OK.

Will all 90,000 polling places be covered?

Mr. ATWOOD. Namfrel's plans are to cover 90 percent of them. That is all the resources that they feel they can put together for this. They feel they will making their choices on those 90 percent so that they will know what the trends are and what the election results will be.

Senator KERRY. How are they going to report that count and to whom?

Mr. ATWOOD. They will be receiving directly from the precinct level, from 90 percent of 90,000 precincts plus, tallies that will come in by radio into Manila. They figure that, by midnight of election day, they will have about 40 percent of those tallies in; that by noon the next day they will have 100 percent of what they need to make a call on the election.

I would imagine that many other U.S. networks and others will be working off the Namfrel quick count as well and that people will know who won the election the next day unless it is terribly close.

Senator KERRY. Are you planning to implement in any way whatsoever this wonderful American phenomenon of exit polling?

Mr. SCHUETTE. I believe there was a commentator in Chicago who advised voters on how to successfully foil that.

No, I don't think we would be asking for whom was a ballot cast, though it would be our intention to randomly interview voters to ask them what the environment is like inside the polling place.

Senator KERRY. OK. Let me come back to a couple of other things. My time is limited, and it is hard to go through all the things I would like to in order really to make this determination.

The ballot box was a major issue.

Apparently only half or so of the polling places were going to be able to have ballot boxes which you could determine ahead of time had not been prestuffed.

Now, it is my understanding that that also has not changed, that the potential for prestuffing is still existent.

Is that correct?

Mr. ATWOOD. We were told by Comelec that all ballot boxes would have one transparent side now.

Senator KERRY. All of them.

Mr. ATWOOD. They have perhaps taken some of the money they were going to use for Super Quick Count and bought ballot boxes.

All of them will be transparent. In addition, it is the requirement of the election inspector to inspect the ballot box before the balloting begins.

Senator KERRY. With respect to the voter lists, we were in touch with some people yesterday in the Philippines, and it is my understanding that in a number of communities where there are small houses there are 240 people registered in one house, there are 160 people registered in another house, and that there are some 7,000 or so flying voters now discovered in central Manila in one of the precincts there.

What steps or measures will be taken in the next two weeks to purge those lists?

Mr. ATWOOD. There were over 50 areas where what Comelec calls statistical improbabilities had occurred, meaning that many more voters were registered than possibly could have come of age since the last election. Let's put it that way.

Those were being investigated.

January 15 was revision day. Our understanding is that the situation is still muddled, that they have concentrated on a couple of the worst cases, particularly in Makati, the area in Manila, where the news reports have been extensive on that particular case.

My concern, and I expressed it when I was there, is that they are using Makati as a showcase, frankly. I will be very candid.

I think they were focusing on this one because it was under the eyes of the foreign press, and that there are some 50 others where there are statistical improbabilities.

I think, once again, that the credibility of this election can be determined to some extent by the actions that are taken during this registration process.

I would say, however, as one caveat, that there are provisions in the law, if they are faithfully carried out by the local and national officials, to guard against double voting, even if there is fraud in the registration process. I am talking about the placing of indelible ink on the finger and that kind of thing, the checking of registration rolls. There are other things that can be done to safeguard against double voting and flying voters and even ghost precincts.

Senator KERRY. But the real issue is whether they are going to be done.

I see the red light is on and I have unfortunately a lot of questions. We are not going to have time to go into all of them now.

It is my understanding that the problem of invisible ink is that a couple of firms have been paid millions of pesos, but Namfrel has already discovered that the indelible ink is not in fact indelible, but can be erased by acetone, gasoline, or solvents.

That discovery has already been made. So we are getting back to right where we were before with the same indelible ink problem.

I would like to ask you a larger question which I think pertains to this issue—if I could just ask this one question, Mr. Chairman.

Are you drawing a distinction in your optimism or hope about the ability of this election to be fair between the machinery per se for the election and those other criteria which we talked about both on December 18, 1985 and which we have talked about within the framework of the amendment that was passed last year. Specifically, for instance, there is the access to the media.

We have consistently stated here, as a committee, and in fact it is part of the law, that access to the media is an essential ingredient of an open and free election.

Now you have talked about machinery. But it seems patently evident that they can't get access to the media.

Is the story in "the New York Times" today about President Marcos' background going to be part of this election? Will the Filipino people hear of that? Do they know about the holdings in New York City? Is that being discussed in the media?

And, apart from the election machinery, is there a per se inability to have a fair election if that criteria alone is not met adequatelly? And are you going to make that judgment or not as part of this process?

Mr. SCHUETTE. Senator, during our 6 day visit, we had an opportunity to monitor some of these media issues. I would be dishonest if I were to offer you a comprehensive survey of the issue.

I think that in terms of television time, there can be little doubt that media coverage is unbalanced. I think that situation improves with radio time on a nationwide basis and I think it improves more with the written press.

It is my personal opinion that even those papers which are called the "crony press" give some treatment to the opposition campaign and, frankly, more treatment than I have seen in many other instances throughout Latin America in far more democratic societies, where papers are controlled by individuals who have a particular political attitude, which is reflected in their papers.

Senator KERRY. Will there be an evaluation of that?

Mr. SCHUETTE. There is one ongoing, as we understand, through the University of the Philippines, where there are a number of students who are sitting down and monitoring this. UNIDO, the opposition, has done some of its own monitoring, and has filed a complaint right before we left.

As to the larger question, and I think it is a particularly cogent point for our work, there are a number of factors unrelated to the election law that need to come into play in our mission. We have been asked on numerous occasions how do you measure intimidation, how do you measure bribery, wherever it occurs by either side?

Our feeling is that both parties to this election have agreed to contest it under the current circumstances, and it seems not for us to say in advance that this cannot be a free and fair election because we have the current regime running for election, because of the control and the machinery which is alleged to be at the disposal of the KBL.

The opposition has chosen to participate under these circumstances. Our mission will involve clearly an evaluation of some of these factors which are unrelated to the electoral law, and we will try to render a judgment in light of those.

But I think it is fair to say that we do not go in with the preconception that an honest election, a representative election, cannot take place.

Senator KERRY. Thank you.

Thank you, Mr. Chairman, for the extra time.

The CHAIRMAN. Thank you, Senator Kerry.

Gentlemen, in the detailed report you have written, you go through all of the ways in which elections at the 300 vote level, the polling stations, could be conducted and the apparatus there. But the summary point which you seem to make is that the wholesale fraud is the area in which the result is most likely to be influenced. Your suggestion, which you have just mentioned to Senator Kerry, is that it takes about 2 to 3 hours, Comelec suggests, to count the ballots at any one polling place, that they are then reported to one of the 91 canvassing centers, and that by noon of the following day, that is, February 8, if the process works, all of the results should be reported to the canvassing center.

Is that sort of a standard that anybody observing this election may go by, including the media, as opposed to what we have been led to believe in the past might be a 2, 3, or 4 week period? In this case the procedure really dictates that it all happens within about 24 hours.

Mr. ATWOOD. Senator, we think that it can happen within that period of time and that significant delays are an indication of foul play. There are some excuses. This is a large country with 54 million people and a lot of violence. There are remote areas, clearly, which would have more difficulty in getting their ballots to the provincial centers.

But, generally speaking, they should be able to do as adequate a quick count, for example, as Namfrel does, and there is no reason why by noon the next day they could not determine the results.

The CHAIRMAN. If there are telephones and radios even from the most remote area, the word ought to be within a 24 hour period into the canvassing center.

Mr. SCHUETTE. Senator, the actual canvas must take place from the election return sheet from each precinct. As Brian noted, there are some very difficult areas to get to and from.

So, while the Namfrel "quick count" is generally relayed electronically through radios, telephones, or Telex, the actual Comelec count that takes place in the provincial capital must await the arrival of the election return.

Mr. ATWOOD. Yes, the paper itself.

Mr. SCHUETTE. That is supposed to take place by noon the following day. I think the vast majority of it does. But there are instances where it is just impossible to get that piece of paper there promptly. The longer the delay, the more suspicious one becomes of the route through which it has travelled to the provincial capital.

Senator PRESSLER. May I just ask one more question?

The CHAIRMAN. Yes.

Senator Pressler.

Senator PRESSLER. The one thing that seems to be missing here, and this follows upon Senator Kerry's question, is a specific plan of action.

This is a group going over. We don't know what the procedures are going to be or what the scope is going to be. Will it be the treatment of the media, is it going to include just the behavior at the ballot boxes, will there be a vote among the members whether it was fraudulent or not—you seem to be playing it by ear.

In inviting people to serve, you must have had a memorandum on what the procedures are going to be, what the scope is going to

be. Or is it just going to be everybody's opinion kind of printed together?

The one thing that seems to be missing to me is this. I know you have to play it by ear to some extent, but it seems as though you are just going there, and when you get there, you are going to look it over and decide what to do.

Is there a memorandum or a plan of action on the procedures and the scope of this?

Mr. ATWOOD. Yes, Senator.

The terms of reference really are contained in this report (indicating). We have identified the areas we will be monitoring. It is clear, in answer to Senator Kerry's question, that the campaign practices will be evaluated just as the procedures for balloting and counting will be evaluated as well.

We are planning to deploy our 40-plus people into eight different areas of the country which have been defined as critical areas.

Senator KERRY. Are those going to be predetermined?

I'm sorry to interrupt. Will everybody know where they are going ahead of time so people can make those areas very showcase and good?

Mr. ATWOOD. No. We are not going to talk about those areas until we have to deploy the day before the election.

Mr. SCHUETTE. Senator, as we complete our terms of reference, we would be happy to share that document with you.

In answer to the invitation aspects, my board of directors only met yesterday to approve this and we are playing a little bit of catch-up ball now. We would be happy to get those terms of reference to you if you would find them useful.

Senator PRESSLER. Yes, I would.

[The information referred to may be found in the appendix.]

The CHAIRMAN. Thank you very much, Senator Pressler.

Thank you, gentlemen.

The Chair would like to call now to the witness table Richard Armitage, Assistant Secretary for International Security Affairs, Department of Defense, and Paul Wolfowitz, Assistant Secretary for the Bureau of East Asian and Pacific Affairs, Department of State.

Senator DODD. Mr. Chairman.

The CHAIRMAN. Senator Dodd.

Senator DODD. While we are getting settled between witnesses, I thought it might be appropriate to discuss the question Senator Pressler raised about the reporters in the story in "the Times." I think it might be worthwhile.

The staff called the reporter who wrote the article, and the former Captain Curtis was not reached because the reporter couldn't find him—or the three other officers, I might add, whose reports the article cites.

The reporter notes, however, and I think it is worthwhile to make this point, that the reports from the four officers all reached the same conclusion. It wasn't as if there were disagreements between them at all on the basis of the interviews conducted with the Americans who were actively involved in the Philippines and thus in a position to assess the validity of the Marcos claims.

However, the "New York Times" reporter did reach and interview those first-hand sources whose statements provided the basis for the Army documents.

In sum, Mr. Chairman, no further information is likely to be obtained, even if the former officers are located, because their reports are based upon evidence provided by the sources which "the Times" did locate and interview.

I thought I would mention that.

Senator PRESSLER. I am not disputing it. I don't know anything about it.

The point that I made is that it seemed strange that the captain was not interviewed.

Senator DODD. They just couldn't locate him.

Senator PRESSLER. The article did not say that and it raised a question in my mind. It seemed strange that they could locate all the other people but they could not locate him. It still seems strange.

Senator DODD. My point is only that that is the background of it.

Senator PRESSLER. I hope he can be located.

Senator DODD. Maybe he will be after all of this.

The CHAIRMAN. I thank the Senator for bringing us up to date on that research.

Gentlemen, we deeply appreciate your coming today. You have made such an important contribution to our last hearing in conjunction with those who had been out in the field in giving an official position of our administration.

Let me just simply indicate to you so that all of us are able to keep our signals clear and public, the committee will be pleased to host the Acting Foreign Minister of the Philippines, Mr. Castro, a coffee this afternoon at 2 o'clock.

So we look forward to continuing some of the dialogue that we have had this morning in this hearing, some of the questions that have been posed to the distinguished panels that preceded you, with him.

I trust that he will be forthcoming.

I intend to visit with the acting foreign minister prior to that meeting and to raise some questions. They may be redundant, but we will at least in every way attempt to make certain that we have a good idea from at least an official representative of the Philippine Government of how they stand.

At this point, I would like to ask you gentlemen in which order you would like to testify this morning.

I see that it is Mr. Wolfowitz.

STATEMENT OF HON. PAUL D. WOLFOWITZ, ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, DEPARTMENT OF STATE

Mr. WOLFOWITZ. Mr. Chairman, it is a pleasure to be here to work with this committee in forging a United States policy for the Philippines and to discuss the critical issue of Philippine elections.

I have a prepared statement which I think you have copies of.

I notice that we are both short on time and you have had some very impressive and detailed testimony by the two witnesses who

have preceded us. I will not attempt to try to reproduce that or to cover their ground. I think I will just try to summarize my remarks very briefly with one observation that has struck me very strongly as I sat and listened to the questions back and forth. It is this.

Though it has been said, it cannot be said often enough or stressed strongly enough the key role that Namfrel, the National Movement for Free Elections, will play in determining the fairness of the Philippine election and in helping to pass judgments after that election.

This is truly a remarkable organization. It think it is testimony to the real vitality of the Philippines, the commitment of the Philippine people on a massive scale to democracy and to democratic values that this organization exists and has been able to be so effective in the past and seems even more effective now.

In the 1984 parliamentary elections Namfrel fielded, they estimate, 200,000 poll watchers covering 40 percent of the some-90,000 voting districts in the Philippines.

That is an impressive organizational feat. Obviously, though, the level of 40 percent is far from adequate.

This year they are hoping to cover 90 percent of the voting precincts, as you heard in testimony, and the estimates are that there will be 400,000 to 500,000 poll watchers fielded by this independent organization.

That is a remarkable accomplishment, I think, for which the organization itself deserves a great deal of credit.

I would emphasize that no consideration of prospects for a fair election or any consideration of the role of foreign observers is possible without appreciating the importance of this fact and without understanding that the Filipinos themselves are organized to observe their own election, and that we believe that if foreign observers can play an important role, it is a role in that context.

That is why, if you look at my prepared testimony, among the positive developments that we note, we consider the accreditation of Namfrel as independent poll watchers to be such a key decision and a positive one, and why assurances of its access to polling places is in our view so critical.

It is also a reason why we are so concerned about the still-unresolved question of whether Namfrel will be able to conduct a "quick count"as it did in 1984 because we believe that ability is really critical to the outcome here.

I think you have to keep in mind that army, if one uses the word, of roughly half a million Filipino poll watchers, in judging, for example, the significance of the Comelec ruling that was discussed at some length here about access by foreign observers to the polling places. I think the comments by Mr. Atwood and Mr. Schuette put that decision very clearly and very much in context.

It is also key to understanding what we mean when we say, and we say it very often, that the ultimate judgment on these elections will be passed not by Americans but by Filipinos. That is not just lip service. It is important. We should recognize that.

Foreign observers can play an important role, as I have outlined in my prepared testimony, in supporting and reinforcing the efforts of Namfrel and other Filipinos. They can help to deter fraud. They

can show support for Namfrel. They underscore the importance the United States attaches to free elections.

But ultimately it is only Filipinos who have, first the resources, and second the understanding of the Philippine context and Philippine history to apply the standards by which an election should be judged.

I think that is a key thing to bear in mind.

With all of that said, we believe that foreign observers can play a crucial role. We are very pleased to learn that the two gentlemen who have just appeared before you have recommended to their respective boards that they send observer delegations.

We are considering the question of whether the U.S. Government should, in addition, send an official U.S. Government observer team. We have already been in consultation with you, Mr. Chairman, and with some of your colleagues, both in the Senate and the House, regarding this possibility. We will be significantly influenced by the conclusions of this committee and this hearing as we approach our final decision.

I might just conclude by saying that I think a positive response to the invitation of our Filipino friends of all democratic political persuasions for election observers would be one step that we could take to assist them in protecting their democratic rights and assuring the future stability of their nation.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Wolfowitz.

Mr. Armitage.

STATEMENT OF HON. RICHARD L. ARMITAGE, ASSISTANT SECRETARY FOR INTERNATIONAL SECURITY AFFAIRS, DEPARTMENT OF DEFENSE

Mr. ARMITAGE. Thank you, Mr. Chairman. I do not have much to add. Just a few brief comments, sir.

First of all, with respect to the insurgency, as we begin a new year, I think I would wrap up 1985 with a comment on the insurgency as follows. With some fluctuations, the insurgency of the CPP and their armed wing, the New People's Army, grew steadily during 1985, and the initiative remains largely with them. Where they are constrained, they have been constrained by themselves and not constrained as yet by the counterinsurgency efforts of the Government.

Since my testimony before you a month ago, there have been both good and bad developments, in my view, in the Armed Forces of the Philippines.

Among the positive developments are the following.

First of all, we have continued to distribute equipment, as I had testified to you we would. Under our first quarter allocation of MAP, of the $15 million MAP, we have allocated now $6.9 million. It has all gone to spare parts, with a small amount going to both Subic Bay and to the Clark Air Base Command for security items.

We have had a transfer of a marine battalion from an outlying island to Zamboanga, a place where it can be utilized to prosecute the insurgency. We have had a marine battalion undergo retraining in the Manila area and it was replaced by a newly formed bat-

talion, which is finally that this program was being planned. I testified to some time ago.

Finally, we have some press reports of a recall to active duty of some Filipino officers. These are not overstaying generals who are being recalled, but officers who have served their time and have gotten out to pursue other careers. They have been recalled to active duty because of an expertise in the insurgency or counter-insurgency.

Among the adverse developments that have occurred over the past month, I must report the fact that there have been no new retirements of overstayers and no wide-ranging top to bottom reorganization of the armed forces of the Philippines. In my view, what is worse about that is that we have lost thus far not taking advantage of an opportunity to enhance the credibility of the Armed Forces of the Philippines.

Regarding the CPP and the NPA during the elections, it is our belief that, in general, they will follow their stated official policy to boycott the elections with some selective disruptions at polling places. This would be a repetition of their activities during 1984.

I would note that President Marcos, General Ver, Lieutenant General Ramos have all stated the necessity and their own desire that the armed forces of the Philippines play a completely neutral, nonpartisan role during these elections. I also note that the reform officers movement, the Reform the Armed Forces movement, has publicly called for and endorsed that nonpartisan role for the AFP.

Of course, the proof of the pudding is in the tasting, and as I testified last month, we all anxiously await and indeed hope that the AFP will continue in this nonpartisan activity. I say "continue" because I think it is generally recognized that in 1984 they took a neutral, nonpartisan stance.

My final comment, sir, is one that is also contained in my written testimony, which I ask you to include in the record. That is that the election itself is not the end of the process, but it can be a beginning of a process in which we can get a handle on the entire range of programs and problems that beset the Philippines.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Armitage.

Gentlemen, I will ask these questions completely to complete our record. We will ask for a ten minute time limit on this round of questioning for all members.

Beginning in early December, President Marcos repeatedly assured U.S. officials that two vacancies on the Commission on Elections, Comelec, would be filled soon.

To date, this has not happened.

In your judgment, what does this failure to appoint the two nonpartisan Comelec commissioners say about the government of President Marcos and its good faith in conducting a fair election?

Do you have a thought on that, Mr. Wolfowitz?

Mr. WOLFOWITZ. I might just call attention to what I said in my prepared testimony.

We still believe that it would be important to appoint independent members to those two vacancies. It is too late to affect some of the determinations, obviously, that the Comelec has already made. But Comelec plays a key role in the process that is still to unfold,

and we think it is important that if those two members were clearly independent, then at least one member of every three member panel could be clearly a recognized independent.

The CHAIRMAN. Clearly it has been the policy of our administration to encourage those two appointments, as I recall, and this has elicited the promises, I suspect, to do that which has not been fulfilled.

Mr. WOLFOWITZ. We have stressed that in both our public statements and in private discussions.

The CHAIRMAN. Mr. Armitage, for 2 months President Marcos has repeatedly told U.S. officials that Gen. Fabian Ver would be retired from his position as Chief of Staff.

Obviously, that has not occurred.

How long do you suspect the delay on General Ver will continue? Once again, what does this say about the intentions of the Government with regard to either us or the elections?

Mr. ARMITAGE. I think, Mr. Chairman, I mentioned to you at one time during a previous testimony on another subject that Herman Kahn didn't will me his crystal ball, unfortunately. I cannot tell you with any degree of certainty what the future of Fabian Ver will be.

I note that you are correct, that President Marcos had repeatedly assured us and had publicly stated that his intention was to retire General Ver prior to the election.

Most recently, however, I understand, in a discussion with the Makati businessmen's group, he indicated that he might find it difficult to retire General Ver because of the difficulty in finding someone to replace him. He mentioned the fact, I believe, that General Ramos, in the minority report on the Escalante massacre, was in some way implicated, and this might prohibit his ability to act as Acting Chief.

So, the short answer, sir, is I don't know when this public statement and promise might be fulfilled.

The CHAIRMAN. As you have pointed out, in addition to a lack of movement on General Ver, there has been lack of movement with regard to the high command, generally.

Mr. ARMITAGE. Yes, as to the top leadership.

I have stated now that over the past 14 months we have had 29 overstaying generals retire, but there are still 29 overstayers—at least my records show that—and, indeed, there has been no motion in the last month, Mr. Chairman.

The CHAIRMAN. The comment has been made throughout the hearing today on the lack of coverage of the Aquino-Laurel campaign on Manila TV stations.

Are the stations, in fact, controlled, as alleged by the Government? If so, and given the Comelec time idea that seemed to be a part of the scheme we were getting into, what comment could you make about this lack of coverage?

Mr. WOLFOWITZ. We think that is a problem, as I have indicated in my testimony. I think it is a more serious problem with television than it is with radio because there are more radio stations and there is more generalized access.

The opposition, until recently, has had trouble even buying television time, for reasons apparently having to do with the role of a

board in the Philippines that is supposed to approve advertising before it appears. We understand that some advertisements have been approved for both parties, and we would expect to see some improvement in that situation.

I would underscore that, as important as we think that is, the Philippines, dating back to World War II and the Japanese occupation, has had a rather well-developed network of informal communication, and things spread with a remarkable degree of speed. I think the issues in this election are extraordinarily clearcut. It is not the kind of election that is going to be decided by a 60-second television spot, the way, perhaps, we tend to think of some of ours.

The CHAIRMAN. What percentage of citizens would be within television coverage range? I asked this in the Guatemalan experience, for example, where perhaps less than a third of the citizens of that country were able to see television at all. Radio was therefore the dominant factor, with over 100 stations operative.

What is the situation in the Philippines?

Mr. WOLFOWITZ. I am not certain, Senator. I will try to get that answer for you.

[The information referred to follows:]

The Philippines have approximately 33 television stations, 267 AM radio stations and 55 FM radio stations. The urban portion of the Philippine population is estimated at approximately 37 percent. Therefore, one could infer that television has the potential to reach about 37 percent of the population. Radio because of its nature covers most of the area of the area of the country and could reach close to 100 percent of the population. However, the limiting factor is that some people cannot afford radios and many cannot afford television sets. According to the best figures we have, television reaches 35 percent of the homes in Metro Manila and 29 percent of the homes in the provinces. Radio reaches 91 percent of the homes in Metro Manila and 78 percent of the homes in the provinces.

Mr. WOLFOWITZ. I would note that, in thinking about the influence of the media in these elections, obviously television has wide coverage in the cities in the Philippines and the major cities in the Philippines are widely recognized to be Marcos' biggest problem.

So I think one should not get too exaggeraged a view of what a controlled media accomplishes in a situation like this.

The CHAIRMAN. Jeremias de Jesus, a leading opposition organizer, was assassinated January 15 in broad daylight in front of the mayor's house in the town of Capas, Tarlac Province.

Witnesses have identified the gunman as a member of the incumbent mayor's bodyguard. No arrests have been made.

Government authorities claim that the opposition itself murdered de Jesus. There have been other murders in recent days which would appear to be political in nature.

What is the administration's assessment of this particular assassination and of the general level of violence in this preelection period?

Mr. WOLFOWITZ. This particular assassination we find deplorable, as we find others. The count that I was given just yesterday was at least five local campaign workers for the opposition have been murdered and four from the ruling party.

You asked the question about the general level of violence and I have to say, that the general level is a good deal lower than in past Philippine elections. Unfortunately, violence in the Philippines in general, and election-related violence in particular is a problem.

We would like to see the Government do more to make it clear that it is opposed to such violence to seek out violators and to punish them. But I think we also have to recognize the facts of the situation.

The CHAIRMAN. Mr. Armitage, have there been incidents of military support for involvement in the campaign on behalf of the KBL in Tarlac and Pampanga Provinces and elsewhere in the Philippines that we have observed?

Mr. ARMITAGE. I cannot confirm any military involvement yet in the campaign. There are always rumors of this, and rumors do continue. I will, be looking for this as we lead up and through the election, and I will be glad to report to you. But I have no confirmed knowledge that there has been any interference of any sort.

The CHAIRMAN. Reference has been made today to the quick count sanctioned by Comelec with three newspapers: Bulletin Today, Times Journal, and Daily Express, which are identified as supporters of President Marcos.

Has this quick count been sanctioned by Comelec? What is the origin of the idea that these three newspapers would be conducting a quick count?

Mr. WOLFOWITZ. I cannot say much about the origin of that specific idea, Senator, but I can say emphatically that it is not a substitute for Namfrel's ability to conduct a quick count. That is, in our view, the key issue. They have the credibility, they have the experience and the ability to do it. The issue that needs to be focused on is working out ground rules with the Comelec that are acceptable to Namfrel.

The CHAIRMAN. In your judgment, Namfrel's quick count still lives? In other words, the three papers have not been sanctioned by Comelec as a substitute for Namfrel?

Mr. WOLFOWITZ. Not that I am aware of, and I must say that I don't see any way that they could be considered a credible substitute.

The CHAIRMAN. Let me just ask for general observations from the standpoint of the administration.

There are reports coming through the press and through traveling Senators, staff members, and what have you, that presently money is being spent lavishly in the Philippines on the election to develop contacts through Baranguay captains, mayors, and local militia. What evidence do we have that quite apart from fraud that might occur on election day or in the counting situations—and we have gone over the details of that at some length—some kind of infrastructure of influence already might be in place or is in the process of getting there through the expenditures of these funds?

Mr. WOLFOWITZ. Money plays a large role in Philippine elections. It always has. It obviously will in this one, and I think there is no question that the money lopsidedly favors the Government side, the Marcos side.

That is a fact and there is no denying that.

I might say, Senator, that someone did a comparison with the 1969 election, which was the second election at which Marcos was reelected, and at least a rough estimate would suggest that in real dollars, not allowing for inflation, both sides spent more in that election than either one will spend in this one.

The CHAIRMAN. Is it your judgment that in the event an official United States delegation asked by the administration to go to the Philippines went there, would it be accompanied to the polls or to the counting centers, or wherever they went, by representatives of Comelec and/or Namfrel or both?

Mr. WOLFOWITZ. I have no idea, Senator. I can try to get an answer for that.

[The information referred to follows:]

U.S. observers will most likely not be accompanied to the polling places or canvassing centers by representatives of either Comelec or Namfrel, although once at the pools or canvassing centers the observers would have ample opportunity to talk to both Comelec and Namfrel officials and receive their views on the electoral process.

Mr. WOLFOWITZ. I think the important thing would be that we have assurances that there are no restrictions on their movements, other than the one we know about, and have discussed at some length here this morning, concerning specific access to the polling place itself.

The CHAIRMAN. In other words, this would be a part of the arrangements—I would not use the term "negotiations"—the conversations about participation as to any restriction that would be place in terms of change of schedule, choice of places, accompaniment of parties, and what have you?

Mr. WOLFOWITZ. I think that is critical to an effective observation process.

The CHAIRMAN. I thank you.

Senator Pell.

Senator PELL. Thank you.

If the election is won by a relatively narrow margin by Mr. Marcos and the perception is that it was not as fair an election as it might have been, what will be the reaction in the countryside?

Do you see acts of rebellion, violence, and protest arising, or do you see the people accepting the results of the election no matter what the perception of its integrity may be?

Mr. WOLFOWITZ. The reason, Senator, we have put such a strong stress on the importance of this election being a fair one—it wasn't our idea to hold it, it was President Marcos'—it is our feeling that if there is to be an election, as there obviously is, then it is critical that it be fair, because if it is seen as unfair we think that it will substantially worsen the situation of the Philippines. In particular, we think it will, by deepening the disillusionment with the present system, encourage more people to turn to the radical alternatives and specifically to the Communists so that their recruitment is likely to grow. We think that it will also lead to a further loss of confidence that will hurt the economy.

Conversely, if there is a fair election as we hope there will be, and if it is seen by Filipinos as fair, then I think that can encourage participation in the system. It would be a repudiation of the Communists who are advocating a boycott of this election. We hope it might also be some stimulus to investors, both Filipinos and foreigners, to put money back in that economy.

It is an economy that is well positioned at the moment now having wrung out its inflation and taken a lot of the bitter medi-

cine the IMF administers—it is well positioned, if confidence can be restored, to resume growth.

Senator PELL. Maybe I will phrase my question differently.

If President Marcos wins the election but the public perception of it is that it was not fairly won, what would be the impact, in your view, in the Philippines afterward?

Mr. WOLFOWITZ. I think it will make people dispirited, it will make many who are at the moment ready to work with the system think that perhaps they should work with the Communists. Let me stress this would be a tragic and mistaken decision. There is no question what a Communist future for the Philippines would be. It would be a terrible one.

There is a very arresting account of the New People's Army that recently appeared in the American press with the startling title, "The New Khmer Rouge." These people bode no good for anybody.

But I am afraid their ability to recruit would increase if, in fact, the elections were seen as fraudulent. I think the economy would go down-hill if the elections are seen as fraudulent. There are local elections coming up in the Philippines in May, and I think for the health of that country it is important that those be actively contested by the opposition. I would think, if the perception is that the election is unfair, those elections in May will be a further problem.

So we think there is a great deal at stake here, and we hope it is clear that the stakes are high enough so that such an outcome will be prevented.

I would note that there are many Filipinos, including many within the Government establishment, many within the military, who have expressed essentially the view I have stated to you and have expressed their commitment to a fair election, regardless of who they want to see win, because they understand the importance to their country.

Senator PELL. Thank you very much.

The CHAIRMAN. Thank you, Senator Pell.

Senator Pressler.

Senator PRESSLER. I have just two quick questions. I have to go join the debate on Conrail.

What is your specific recommendation? I missed this maybe. What is each of your recommendations on whether or not the President should designate an official group to oversee the election? Is there a memorandum going forward from the President? What is the process?

Mr. WOLFOWITZ. I would rather not indicate a personal recommendation until the President has made up his mind.

Senator PRESSLER. Have you recommended something?

Mr. WOLFOWITZ. I see many arguments in favor of sending observers, and while I understand some of the reservations, I believe that, in my personal view, on balance the arguments are in favor of it.

Senator PRESSLER. I understand that.

Has a memorandum or recommendation gone forth from the State Department and the Defense Department to the President? Certainly at this point there must have been a memorandum that has gone forward.

Mr. WOLFOWITZ. There has been quite a bit of interagency discussion, but there is no final decision by the President yet.

Senator PRESSLER. There are only 2 weeks left. How soon will the State Department make up its mind?

Mr. WOLFOWITZ. Very soon. We knew these hearings were coming, Senator. We have been consulting with people here.

Senator PRESSLER. But you don't have a position this morning, is that it?

Mr. WOLFOWITZ. Not a final one.

Senator PRESSLER. I am not criticizing you. I am just trying to get to the bottom line.

Mr. WOLFOWITZ. Not a final one. We would like to have one very soon and it depends very much on what we hear from the Congress.

Senator PRESSLER. What is the Defense Department recommending to the President?

Mr. ARMITAGE. We are part of that interagency group, Senator. We have staffed it.

Senator PRESSLER. Where are you going to be finished with your work?

Mr. ARMITAGE. As soon as we can get a final agreement and finish our consultations with the Senate and have some discussions.

Senator PRESSLER. That will probably be when—in a couple of days?

Mr. ARMITAGE. I would hope so, sir.

Senator PRESSLER. Good.

The other question goes to the strength of the Communist Party, the Communist insurgency in the Philippines. They are probably two things.

First of all, as I understand it, they are not participating in the election.

Is that right?

Mr. ARMITAGE. They have publicly stated that they shall boycott these elections, Senator.

Senator PRESSLER. They have asked their people to boycott them?

Mr. ARMITAGE. Yes. It may be more of a passive boycott. That is, where they think they can make some difference, they may participate or coerce, but where they cannot, they will boycott it.

Senator PRESSLER. What percentage of the people in the Philippines are Communists?

Mr. ARMITAGE. Goodness, I don't know that we have a percentage figure. I can give you what we believe to be areas under Communist control.

Senator PRESSLER. What percentage is that?

Mr. ARMITAGE. Approximately almost 20 percent are either controlled or influenced by the Communists.

Senator PRESSLER. Are there areas where Government troops cannot go?

Mr. ARMITAGE. There are areas that Government troops avoid, Senator.

Senator PRESSLER. There are.

How much of the countryside is that? Is that 20 percent?

Mr. ARMITAGE. No, not quite. In areas influenced by the Communist Party, the New People's Army, the Government can establish a presence in the villages or in the Barangays during the day.

Senator PRESSLER. So there is no area that is held exclusively day and night by the Communists?

Mr. ARMITAGE. There are areas which Government troops would not want to go in, and those are areas which are totally controlled by the Communists. They are sometimes in mountain strongholds and some valleys.

Senator PRESSLER. What is the trend?

Mr. ARMITAGE. There are some in Zamboanga, there are some now in Samar, which are heavily Communist.

Senator PRESSLER. What is the trend?

Are they getting stronger or weaker?

Mr. ARMITAGE. They are getting stronger, Senator.

Senator PRESSLER. Stronger.

Thank you.

The CHAIRMAN. Thank you, Senator Pressler.

Senator Dodd.

Senator DODD. Thank you, Mr. Chairman.

Before beginning, let me say to you, Secretary Armitage, that I know you just came back from North Vietnam on that mission regarding the MIA's and from this member's perspective I think you did an excellent job in that regard and I want to commend you for that.

Mr. ARMITAGE. Thank you.

Senator DODD. Regarding the last question raised by Senator Pressler, have you noted or have there been any reports that the NPA has received any beefed-up assistance or any new assistance from the outside to deal with the upcoming election in any way?

Mr. ARMITAGE. No, not the New People's Army.

As we have testified in the past, the Communist Party of the Philippines does receive funding from Eastern Europe and the United States, from private citizens in the United States, to a certain extent. But we are unaware of any equipment shipments to the NPA from outside.

Senator DODD. What is that level of funding?

Mr. ARMITAGE. I don't know. Perhaps Paul does know.

Do you?

Mr. WOLFOWITZ. No; I don't think so.

Mr. ARMITAGE. I will try to do a better job and get you some figures. I don't have them.

[The information referred to follows:]

[Deleted.]

Senator DODD. But there have been no indications in the last month or so that there has been any increased effort to raise additional funds that in any way deal with the election, or support the boycott?

Mr. ARMITAGE. I have no knowledge of any increased efforts.

Senator DODD. Congressman Solarz and his subcommittee of our counterpart committee in the House of Representatives had some hearings in the last several days that received a great deal of attention regarding real estate holdings, alleged real estate holdings of the Marcos family here in the United States.

What can you tell us about those reports? What knowledge or information does the State Department or Defense Department have that would either corroborate those allegations or negate them?

Mr. WOLFOWITZ. We do not attempt to monitor investments by foreigners in the United States and we do not have information on that.

We don't have any information. We would not have it. We would hope to know if there was information regarding violations of U.S. law, and if we had that, we would, of course, turn it over to law enforcement authorities.

We have been over the question, quite a few times, of the use of our own funds in the Philippines. We have on several occasions tightened up procedures to make sure that our funds are not misused. I think that the auditors and inspectors have generally come back with good reports on our ability to monitor our own funds. The General Accounting Office, an arm of the Congress, as you know, is currently in the Philippines looking at this question again, and we will look at their report when it comes back.

I think it is important, particularly at this critical time in Philippine history, that we be careful ourselves here in the United States about doing things that are interpreted as openly partisan in one way or another.

Senator DODD. I'm sorry?

Mr. WOLFOWITZ. I think we need to be careful about doing things here in the United States that are interpreted in the Philippines as openly partisan. That is something we need to bear in mind, too, particularly in the critical weeks leading up to their election.

Senator DODD. As far as the question itself goes, the State Department or the administration has no information regarding the value, quantity, or size of any real estate holdings that President Marcos or his wife have.

Mr. WOLFOWITZ. No; we don't.

Senator DODD. This next is probably for Secretary Armitage, but I will ask it of both of you.

Are you familiar with this report, this 1948 report? I notice they called you, apparently, or someone in your office, Mr. Secretary, regarding any subsequent requests for benefits after 1948. So let me address the question to you.

Were you familiar with this report?

Mr. ARMITAGE. I got a call last night from a newspaperman who asked me a question and I said that I was unaware of any appeals after 1948. Yesterday, around noon, I found out that there was such a story in the New York Times, and I got a little smarter on the wartime files.

I found out that there are approximately 950 file cabinets of personnel files on Filipino activities during World War II, and that apparently, in 1985, as the story indicates, approximately 2,000 cubic feet of administrative files were transferred to the National Archives.

Now, if I may respond to some of the statements you were making earlier, sir, I think there are two issues involved. The first one is an issue of President Marcos' activities under the command of General MacArthur, under the general command of U.S. military forces. I am talking about prior to the fall of Bataan.

In 1982, as you may remember, President Marcos came here on a visit. Prior to that, there was some controversy swirling about as to his eligibility for certain U.S. awards for valor. The army was tasked to look into this. Based on the recommendation of the MacArthur headquarters, they determined that President Marcos, for his activities on Bataan, in January and February, I believe, particularly of 1942, was eligible for three awards for valor: the Distinguished Service Cross, the Silver Star, and a Purple Heart. The Army has so written to several Members of Congress who have inquired about that controversy at that time.

Senator DODD. He had actually been recipients of those awards?

Mr. ARMITAGE. He was. He did receive those three U.S. awards.

Senator DODD. But there was no information surrounding the circumstances that led to those?

Mr. ARMITAGE. With your permission, the Army, as I understand it, was accepting the recommendation from MacArthur's headquarters. The Philippine units were under the command of the United States at that time.

That is a different problem from the one that I just found out about yesterday afternoon existed, and that is the question of the existence of a record concerning the denial of a request by President Marcos for recognition of his wartime guerrilla unit.

Now, I think that is what the article is about. I was unaware of that record's existence. I have yet to read it, though I am most anxious to do so.

Senator DODD. Well, I would obviously like to hear from you when you do.

Mr. ARMITAGE. We were aware that there are wartime files on Filipinos to include President Marcos. They resided in St. Louis. I had never read them and they were declassified in 1960, I am told.

Senator DODD. I would like you to examine those as well. There is the allegation here that a Dr. Tacca in 1983 had made a request of the St. Louis file center or archive center for this particular report or information, maybe not that report specifically, according to this story. I think it is important to corroborate this. But according to the story, he was denied access to that information on privacy grounds.

Are there any such regulations regarding this?

Mr. ARMITAGE. There are enough lawyers around and I am not one of them. The Privacy Act does protect certain aspects, particularly personnel files—yours, mine, any of ours, or allegations about our family, something like that—from public exposition. There is also a Freedom of Information Act which perhaps might even have precedence over the Privacy Act, and that may have been applicable in this case.

But you've got me. Since 8 a.m. this morning I frankly have not had time to investigate it. But I heard what you requestsed and what the chairman indicated he wanted, and we will have to follow through and we will provide you with a report.

[The report referred to may be found in the appendix.]

Senator DODD. Does it strike you as though there may be some inconsistencies between the awarding those medals, the three medals that you have mentioned, and the conclusions reached by this report in 1948?

Mr. ARMITAGE. No, it does not strike me as inconsistent as I see two different timeframes and two different circumstances: one, under the command of the United States before the island of Bataan had fallen—that is one question; and then there is another question about guerrilla activities during the Japanese occupation. I believe that is what the report talks about. But I have to get smarter on that, Senator.

Senator DODD. Lastly, do we have any information at all on this—numbers were mentioned that maybe as many as 400,000 poll observers will be under Namfrel. That is an extraordinary amount of people.

In fact, someone mentioned 500,000 people in the military. I don't know how many military personnel will also be poll observers. I gather some will be.

Is that a fact?

Mr. ARMITAGE. No.

The INP, the Integrated National Police, and the PC, under the command of General Ramos, have been deputized by Comelec. That is a normal procedure, as I understand it, that procedure was followed in 1984 and in previous elections. Their numbers are something around 100,000 if they were all to be called into play.

They have the ability to maintain order, crowd control, things of that nature, as I understand it.

Mr. WOLFOWITZ. But that is not poll watching. They are not designated as poll watchers.

Senator DODD. Was the number that Brian Atwood mentioned—I think Brian was the one—right, that Namfrel was trying to get as many as 400,000 people as poll watchers.

Mr. WOLFOWITZ. We have heard 400,000. I think I heard him mention the figure 500,000.

It is an extraordinary number.

Senator DODD. Maybe it is the conspiratorial viewpoint that one acquires after a while, but putting 400,000 people together under the banner of Namfrel and to assume that merely because they are operating under Namfrel they are going to be pristine poll watchers is—well. What sort of checks are there as to who serves as a poll watcher—anybody who shows up and says I'd like to sign up with Namfrel and be a poll watcher?

How do you screen poll watchers? That is almost one out of every 100 people in the country who will be a poll watcher.

Mr. WOLFOWITZ. The best answer I can give you, Senator, is to cite the record, and that is that Namfrel put 200,000 people in the field in 1984, and I have not heard any serious accusation questioning the integrity of that organization.

I think Senator Pell in part put his finger on what is at issue here, name that if there is the kind of grass roots commitment and feeling that there may well be in the Philippines, one has a prospect of assuring a fair election. If 60 percent of Filipinos can be bought, bribed or coerced, then it will be perhaps like the 1949 election, in which they said the cemeteries were emptied for the vote and hundreds of people were killed in the political violence.

Our sense, though, is that there is a very strong commitment by extraordinary numbers of Filipinos. Before one is too quick about writing off this whole process, I think the comments you heard

from Mr. Schuette, and that you can hear from others, about the precedents for elections in other countries in the developing world are very apt. I don't think there are many who could put together this kind of organization and have that sort of credibility.

I cannot tell you precisely how Namfrel checks their people, and obviously that is one of their big concerns. But they have a lot of committed people who will be looking out at the others.

Senator DODD. But we are not aware of any screening process that Namfrel uses?

Mr. WOLFOWITZ. I am sure they have one, and I will try to get that information for you for the record.

Senator DODD. I'd appreciate it.

[The information referred to follows:]

The screening process used by Namfrel for its volunteers tends to be very informal and varies from province to province. The majority of the Namfrel volunteers are young people, many of them students. In most areas, given the number of volunteers needed to cover the polling places and canvassing centers and to guard and accompany the ballot boxes, Namfrel must rely on the good will and and bona fides of the people who come forward as volunteers. The cost, administrative difficulty, and time involved in a formal screening process make it impossible to conduct such a process in the short time before this "snap" election. However, Namfrel faced much the same challenge in the 1984 election and did a very credible job.

Mr. WOLFOWITZ. They have talked to us. They are aware that one of their greatest potential problems could be having people inside who were actually dishonest.

Senator DODD. Yes.

Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Kerry.

Senator KERRY. Thank you very much, Mr. Chairman.

It is my understanding, Mr. Secretary, that the Pentagon has documents regarding the abuse by General Ver of expenditure of funds. Is that accurate?

Are you aware of that?

Mr. ARMITAGE. No, I am not, so I cannot attest to the correctness of that statement.

Senator KERRY. Are you aware of any agency that has information about General Ver's abuse of funds?

Mr. ARMITAGE. Let me be candid with you.

As you probably know, there is an investigation in the Amworld case, an investigation which was started by the Pentagon and particularly by the Defense Security Assistance Agency, when they noticed what they thought were irregularities concerning the contract for a commercial purchase of some equipment. It was microwave equipment in this case. That is under a grand jury investigation.

But I do not know that that leads to General Ver at all, and it is an ongoing investigation with the grand jury.

That is the only investigation that is active that I know of.

Senator KERRY. Are you at all curious, is your curiosity sparked by these reports about real estate holdings? Is it something that you think ought to be pursued, perhaps going back in time before stricter accounting procedures were put into place and so on? I mean, when I spent 3 hours with President Marcos last April, he delighted in telling me some of his political history. I know he was

not rich and he did not start out before he was President with the assets that he has today.

Certainly before we consider a next go-around of foreign aid for the Philippines, I would be interested to know whether we should make some determinations about where those holdings have come from and whether that should affect our judgment.

Mr. WOLFOWITZ. I think there are some valid questions and we should think about them and would be pleased to consult with you and talk about it.

I do think we also ought to bear in mind that we are in the midst of another country's election campaign, and this is the sort of issue that I think really is something that we, as foreigners, should be careful about getting into in the middle of an election campaign.

I think, while one can be very interested in it and feel in a general way that it has some importance, we are treading on ground that we ought to think about beyond the Philippine context.

There are no laws against foreigners investing in the United States.

Senator KERRY. But there are laws against anybody stealing American funds.

Mr. WOLFOWITZ. On that point, Senator, I would agree with you. We should discuss it at any time and any place we have hard information. That is something we think we should be very concerned about.

Senator KERRY. Let me ask you, perhaps hypothetically, about the election.

If there are widespread allegations of fraud and the observer team and/or others who are paying attention to this issue and this election make allegations of widespread fraud, and Marcos is, in the midst of those allegations, reelected, and the allegations are serious and substantial, what will this administration's policy then be toward President Marcos?

Mr. WOLFOWITZ. I think if that happens we have a serious problem and we need to think about how we address it. But we should not make it a self-fulfilling prophesy right now, as though we are convinced it is going to happen.

I believe the consequences in the Philippines itself of that sort of development will be even more serious than the consequences in our relations.

As I said in answer to Senator Pell, I think those consequences include, particularly, a growth of the Communist insurgency and a further decline in the economy.

The importance of that point has been stressed over and over again. But I don't think we should write off these elections in advance and assume that they won't be fair.

Senator KERRY. I will accept that.

I'd like to say something.

I am concerned that we are kind of dancing around something here, that we are playing a polite kind of game which is going to suck us into a position from which it is very hard to make judgments.

I hope that is not true.

The reason I say this is the following. Many people have come back and cited what a shrewd politician President Marcos is and

have talked about how bright he is. I understand he got the highest grade ever in the bar exam in the Philippines and people have acknowledged he is a bright lawyer, and so on. God knows how that grade came through, but it came.

Certainly he is no novice in manipulating and using the tools of power. If he were trying to provide us with the fair election he talks about, then wouldn't he want to welcome foreign observers to come into the polling booth and actually see how votes are tallied?

Wouldn't you want to appoint two members of the opposition to Comelec and fulfill a promise to this country?

Wouldn't you want to make every measure necessary to try to be able to convince people of the legitimacy of your power and your right to continue in office?

It seems to me that every step of the way this is so begrudging, it is so reluctant, it is so last minute and so confused that that, in and of itself, sends a message and makes a statement about this election.

Are we kidding ourselves? Does it send a message?

What is your response to that?

Mr. WOLFOWITZ. Some of the most important things, and specifically the accreditation of Namfrel, have been done. That is a very important signal.

I think, in fact, Marcos has made clear both publicly and privately that he welcomes observers. The action of the Comelec, in the way they passed that resolution, is, I think, unfortunate.

Senator KERRY. Well, he says that. But if you welcome an observer, why not guarantee that the observers are going to really be able to see what is going on?

Mr. WOLFOWITZ. I think they will see what is going on. The testimony that you have heard earlier shows that they will.

Senator KERRY. May I ask you a critical question about that?

Will Namfrel be able to actually be present at the talley? It is my understanding that they are going to be given a tally sheet, but I don't believe they are going to be present at the tally.

What are you doing? If you are not present at the talley and you are given a tally sheet, where the hell did it come from, who wrote it up, what does it mean?

Mr. WOLFOWITZ. I will check.

My impression is that they will be present at the tally.

Senator KERRY. At the tally itself?

Mr. WOLFOWITZ. That is our understanding and certainly my understanding. I really am a novice when comes to observing elections, but I must say, as I read more and more about the Philippines, the level of sophistication on both sides about the potentiality for fraud and the ways of preventing it is really quite extraordinary.

There is a lot of expertise, not all of it good. But a lot of it, in fact, is good.

Speaking as a novice, it seems to me that you would, in fact, need to have independent observers present at the tally, especially, as has been indicated here, with the tally process being so critical—and not just the counting at the local level but, even more important——

Senator KERRY. At the wholesale, secondary level.

Mr. WOLFOWITZ [continuing]. That's right. That's right.

I think that is critical.

Senator KERRY. The other question I have is this.

From the administration's point of view and in advising us, from the first moment we began to try to prepare for this eventuality of elections, I have been concerned about the issue of standards by which we will be making our judgment. I have heard comment today from people whom I respect and know that lead me to believe that we may be looking at this election in terms of past elections, that it's going to be a relative judgment we are going to make about its fairness.

My question to you is are we making a judgment, are you making a judgment, and are you advising us to make a judgment that is based on our own definition of a fair election? Or are we going to make a judgment that says that relative to past elections in the Philippines, this was pretty fair and, therefore, it's OK. Or are we going to say that the standards we set up—Comelec, balloting, access to the media and all of those criteria—have not been met and ought to be met?

Is it our standard, their standard, a midline standard—what is the standard?

Mr. WOLFOWITZ. The standard, Senator, is what I said in my opening remarks, and that is going to be what the Filipino people themselves judge. That I think is the most important thing.

They are organized in a rather impressive way to pass those judgments.

I think we should recognize that those judgments are going to be in some conflict. There is almost no question that the winner is going to say it was fair and that the loser will cry fraud, to some degree.

We have a great deal of confidence, based on their past record and based on our contacts with them, that the people in Namfrel are capable of distinguishing their interests in a particular outcome from the question of fairness.

Senator KERRY. Are you saying that Namfrel will be equated, then, with the Filipino people? I mean, if Namfrel says it is fair, that's it?

Mr. WOLFOWITZ. I'd be cautious about equating anything. I think you will hear multiple voices and you will have to interpret them. But I certainly think Namfrel's is going to be the strongest and probably the most credible voice, without much doubt.

One of the reasons that we believe sending observers is useful is because that very issue—how do you interpret the different kinds of things you are hearing from Filipinos?—is one that is very hard to judge at long distance. You do not become an instant expert on the Philippines by being there for a week, but you certainly get a much, much richer feeling of the variety of Filipino views, and the things on which they seem to have clear views and the things on which they seem to be divided, by being there and talking to them.

But we really have to recognize that they are the ones who are going to pass a judgment not only in a formal sense but in the sense that I described in answer to Senator Pell. It is their actions after this election that will determine whether the election is a

positive event for the Philippines, or, to the contrary, a downward turn.

Senator KERRY. I thank you for that.

I see the red light is on.

I just want to thank you also as a Vietnam vet for what you accomplished in your recent discussions on the MIA issue. I think it is important in opening what I hope is going to be a good process of resolving one of the important issues that remains from that war.

You guys are becoming quite a traveling duet here.

Mr. ARMITAGE. Yes. We have to stop meeting like this. [Laughter.]

Mr. WOLFOWITZ. You know, on that issue, Senators, we have had wonderful bipartisan support from both the House and the Senate. I think one of the reasons we have the attention of the Vietnamese is because they know that on this issue, we are not a divided country.

Senator KERRY. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Kerry.

Gentlemen, we thank you for coming again and we look forward to staying closely in touch with you.

This hearing is adjourned.

[Whereupon, at 12:55, p.m., the committee adjourned subject to call of the Chair.]

APPENDIX

PREPARED STATEMENT OF BRIAN ATWOOD

Mr. Chairman, thank you for inviting us this morning to testify on our recent visit to the Philippines. We have submitted a comprehensive report on that visit and would like to summarize our findings.

We represent Institutes whose purpose is the development of democratic institutions. There is no more important institution in a democracy than an election which is a free and fair expression of the peoples' will.

It has been our thinking all along that, if there is indeed a chance that the expression of free will can occur on February 7, we should do our part to help bring that about. We are announcing today that we have begun the process of organizing an international delegation of at least forty members to observe and evaluate the election.

We did not arrive at this decision lightly. We are painfully aware of the difficulties Filipino authorities have had in conducting past elections. Even the 1984 election, reputed to be one of the cleanest in Philippine history, was marked by intimidation and fraud.

In making a decision to go ahead, these factors have most influenced us:

--The electoral law that will govern this election provides a sound and measurable demarcation of proper and improper activity.

--The procedural safeguards contained in law and regulation are adequate to deter and detect fraud

during the balloting and counting phases of the electoral process.

--The groups accreditted by the Commission on Elections (COMELEC) to monitor this election--particularly the National Citizens' Movement for Free Elections (NAMFREL) and the Integrated Bar of the Philippines (IBP) --have the resources to deter illegal activity, the courage to report it when it occurs and the integrity to evaluate objectively the election's fairness.

--The access and cooperation needed by an international delegation to make its own objective evaluation of the electoral process will be provided by these organizations and by local and national officials.

--Finally, the large number of Filopino citizens who are dedicated to democratic principles and who believe deeply that this election can bring a return of political stability to their country has impressed us deeply.

In sum, we think we can help make a difference in support of those who believe that this is the acid test for democracy in the Philippines. We have been asked for help by people on all sides--people who believe that foreign

observers might deter those who will be carried away with exuberance on behalf of a particular candidate, and those who would try cynically to thwart the will of the people by tampering with the electoral process.

We recognize that many feel that a free and fair election is not possible when a President who imposed martial law and suspended democratic practices remains in power and is one of the candidates. President Marcos does have tremendous advantages in this election as a result of his incumbency. But the decision whether to contest this election is not ours, it belongs to Ferdinand Marcos, Corazon Aquino and the Filopino people.

There will be an election on February 7. Theoretically, the same rules apply to both sides. However imperfect, it is the only game in town.

We found few absolutes in the Philippines--far fewer than we have found here in commentary about the situation. This will not be a perfectly fair election--we have not had many perfect elections in the world's experience. The question I ultimately will ask myself about this winner-take-all election is whether the will of the majority of voters has been served.

If that majority will is thwarted by intimidation or fraud, then the consequences will be severe. Political stability is not achieved by governments which gain power by illegitimate means.

Having decided that we will send an international group to the Philippines, we should also emphasize that we will be watching events closely in the next two weeks. We will not hesitate to cancel our plans abruptly if developments make the conduct of a fair election impossible or threaten the ability of our group to do its work.

In this regard, it is my personal view that the resolution governing foreign observers issued by COMELEC was unnecessarily provocative. The title of the resolution--"Rules and regulations against foreign intervention"--suggests a hostility which belies the official welcome we received from the COMELEC and the Philippines Government.

Much attention has been paid to a provision of the resolution which "bars foreign observers from the polling places," as it is most frequently stated in news accounts. This provision was written to control activity at the polling places by listing those authorized to be present. We had reviewed this law and its impact and had concluded, before the COMELEC resolution was issued, that it was reasonable and would not effect our ability to evaluate the election. It is not unlike laws in Great Britain and other

democratic nations. Other provisions of the electoral code give foreign observers ample access to poll-watchers from citizens groups, both parties and election officials. In addition, there are no restrictions on our access to canvass centers where, in the past, cases of wholesale fraud have been reported.

We did not expect COMELEC to permit foreign observers to violate Filopino law. At the same time, we found their decision to refer explicitly to this particular provision very troubling, and we said so. The perception created in this country is one of a government which wants to conduct its election out of public view. This was not what we were told during our visit and we continue to believe that we will be welcomed in the Philippines.

We will also watch the continuing effort to work out the modalities of the COMELEC-NAMFREL relationship. We were assured that nothing would be done to compromise NAMFREL's access to polling places and canvass centers. In addition, we felt reasonably confident when we left that the independent nature of NAMFREL's "quick count" would be maintained. It must be.

The integrity of NAMFREL's monitoring capability is vital if the Filopino people are to have confidence in this

election. For our part, we will not depend on any one group for our evaluation of the election. Still, given our limited resources, we simply could not accomplish our task if NAMFREL and other legitimate citizens' groups are not permitted to do their job with full and open access at all levels.

This is a difficult challenge, but one well worth the effort. The flame of democracy still burns in the Philippines and those who would miscalculate its importance sorely underestimate the people of that nation. There is no more sacred institution of democracy than the electoral process. It is from time to time the duty of the community of democracies to stand in support of that process. We are fortunate that, through our work with other parties around the world, we are able to take up the torch alongside the democrats of the Philippines.

PREPARED STATEMENT OF PAUL D. WOLFOWITZ

Mr. Chairman, I welcome the opportunity to continue the close dialogue with the Senate Foreign Relations Committee on the U.S. policy toward the Philippines. This hearing is especially timely as the Philippines prepares for a Presidential election at what may be the most critical juncture in its history since World War II.

As the Committee knows, our Philippine policy rests on the basic judgment that fundamental political, economic and military reforms are needed urgently first, to restore stability, growth, and confidence; and, secondly, to halt the growth of a brutal and dangerous communist insurgency. At my last appearance before the Committee on October 30, I discussed the issues of political, economic and military reform, and outlined the nature and prospects of the communist insurgency, including both its military and political components.

Today, I want to focus on the Adminstration's policy towards the special national election to be held on February 7 for the offices of President and Vice President. By calling for this special election, President Marcos has opened the possibility of reviving the democratic process and restoring the faith of the Filipino people in their government. For that reason, this election is to be welcomed. We believe a credible

election, which freely expresses the will of the Filipino people, can be a significant step toward restoring political stability and popular confidence in government.

At the same time, by calling this election, President Marcos has raised the political stakes, not only for himself and his opponent Mrs. Aquino, but for the Filipino people. Should the electoral process be perceived by Filipinos as having failed, the result would be a major setback. Such an outcome would lead to the polarization of Philippine society, deepen the political and economic crisis, and accelerate the growth of the communist insurgency.

The elections alone will not resolve the deep-rooted problems of the Philipppines. Whoever is elected will need the support of a people who believe in their democratic institutions, and thus themselves, if they are to address successfully the pressing national agenda. They will need skill, determination and courage. And they will need the help of the United States and other countries which share our interest in the stability and well-being of the Philippines.

U.S. POLICY

Let me state clearly that the United States Government

supports the democratic process in the Philippines. We do not support any individual candidate or party. We are not taking sides. We have not been and we will not be partisan. The choice of leadership is exclusively a choice for the Filipino people to make. We believe we can work constructively with any democratically elected government in Manila.

Nevertheless, we have a major interest in helping to assure that this election is free and fair. Both publicly and privately, we have emphasized the critical importance of the credibility of this election. Elections that are credible to Filipinos will set the stage for renewed economic growth, an effective counterinsurgency program, and reinvigoration of the latent energies of a talented and hard-working people. Elections that are not considered credible by Filipinos will result in prolonged economic stagnation, continued growth of the insurgency, and mounting political despair.

The Filipino people have demonstrated a strong commitment to and concern for the fairness of the election. The vast majority of Filipinos have rejected denunciations of the electoral process and calls for boycott made repeatedly by the Communists. A concerned and aroused citizenry is always the main line of defense of democratic institutions and freedoms. We believe the U.S. should continue to support the Filipino

people's commitment to the democratic process in a manner appropriate for a friend and ally and in a strictly non-partisan fashion.

ELECTION PREPARATIONS

To appreciate the emerging electoral climate in the Philippines, we must examine the way Philippine institutions are meeting their responsibilities. The Committee has played a significant role in broadening our mutual understanding of the process and forces at work in the Philippines in connection with this election. Last month, at your request the politically bipartisan delegation from the Center for Democracy examined the preparations for the upcoming election.

Although the context of the election remains considerably short of the ideal, there are important postive signs. We note the following favorable developments which were unresolved at the time of the last Committee hearing:

- The National Movement for Free Elections (NAMFREL), a volunteer citizens movement seeking to ensure a fair national election, has been accredited by the Commission on Elections (COMELEC). As an accredited national citizens' arm, NAMFREL should be able to play

the same effective role of election "watchdog" that it played in the 1984 parliamentary elections.

- The Aquino-Laurel ticket has been designated by COMELEC as the "dominant opposition party," thus ratifying the objective reality and permitting credible opposition party poll-watchers at the voting precincts and canvassing centers.

- Significant statements from within the Armed Forces of the Philippines, calling upon all officers and men to avoid interference and to ensure a fair election, have provided some reassurance concerning the anticipated role of the military.

Also, I would note that a vigourous and free-wheeling campaign is being conducted by all candidates. For the most part the opposition has been able to stage appearances by the candidates and hold rallies without interference.

The Archbishop of Manila, Cardinal Jaime Sin, called upon all Filipino people to foreswear election fraud or violence, to join in the vigil to assure a free election, and to support NAMFREL. The Cardinal's pastoral letter, read last Sunday at many churches in the Philippines, is clearly an important

initiative for a clean election in this heavily Catholic nation.

Although the above examples show there are key forces working for a fair election, there are also some developments -- or lack thereof -- which we find distrubing:

- President Marcos has not moved to fill the two vacancies on COMELEC with respected individuals acceptable to both sides as he has repeatedly indicated he would do. It is clearly too late for new appointees to be effective in ensuring that the preparations for the now imminent election are acceptably fair. Nevertheless, in view of the importance of COMELEC in the vote tally and appeals process, we would still hope that the President will implement his commitments in this regard.

- While NAMFREL has been accredited, we are concerned about reports of harassment and orchestrated criticism of this distinguished citizens' volunteer group that could inhibit NAMFREL's freedom of action and discourage the large-scale popular volunteer participation on which its effectiveness depends.

- Moreover, disturbing questions remain concerning

whether NAMFREL will be able to report original precinct counts accurately and promptly to a public "election central" in Manila. This so-called "quick count," which NAMFREL performed very effectively in the 1984 parliamentary elections, inhibits one of the most serious traditional mechanisms of election fraud -- the substitution of ballots or ballot tabulations on their way from the individual precincts to provincial and regional canvassing centers. Mr. Chairman, I believe as your Committee and the Adminstration continue to watch developments, it would be appropriate to consider this as one of the most critical functions for assuring a fair election. We trust that the COMELEC and NAMFREL will be able to work out a mutually satisfactory working arrangement.

o Reasonable and fair access by the opposition to the national media has not occurred, contrary to the requirements of the election law and repeated public assurances by the Philippine Government. National television remains overall unavailable to the opposition, even for paid time. The large number of radio stations has provided the opposition somewhat greater radio access, but broadcasters have been pressured to limit opposition campaign coverage. The

highly touted "COMELEC time" -- balanced access to all media, guaranteed by COMELEC -- has yet to be implemented for the opposition, although most recent reports indicate some progress is being made in this area.

- Significant changes in the leadership of the Armed Forces, which would alleviate some of the Filipino concerns about politicization of the armed forces, have also not occurred, despite statements by President Marcos that he intended to undertake such changes. Despite much talk of the need for military reform, the top leadership of the Armed Forces remains essentially unchanged, thus forfeiting a chance to increase public confidence in the neutrality of the military in the coming election. The ultimate role of the military in the election will be determined, of course, by both the orders and the example given by the military leadership. The commitment of that leadership to its responsibilities to keep the military neutral will be critical in determining the credibility of the election.

Adding greatly to our concerns, is the murder of at least five local campaign workers for the opposition and four from the ruling party. Reports of other forms of intimidation in a number of areas are growing. Such violence, unfortunately, is

not something new in Philippine history. Politically motivated violence has long been a regular and deplorable occurrence during election periods in the Philippines, especially during highly charged presidential campaigns. But the stakes in the credibility of this election are particularly high, and, thus far, we have seen no significant effort to bring those responsible for these political murders to justice or to inhibit further violence and intimidation.

If the election preparations, which involve the work and commitment of thousands of Filipino citizens and their political leaders, culminate in an election process that Filipinos find fair, the 1986 presidential election can be the most successful in Philippine history. Conversely, if the Filipinos deem the election fraudulent, an opportunity of historic proportions will have been lost.

ELECTION OBSERVERS

President Marcos has encouraged foreign observers to come to the Philippines to witness this important election. We welcome that invitation. Today, the Committee has received a report of the international institutes of the Republican and Democratic parties, which went to the Philippines this month to explore the prospects for organizing an international observer

delegation in response to President Marcos' invitation. I am pleased to learn that they strongly recommended to their respective boards that such an observer delegation be sent. We share their fundamental views about the objectives of foreign observer delegations to the Philippine presidential election which include:

-- to help deter fraud;
-- to show support for the millions of Filipinos who believe in democratic elections and whose personal actions will determine the fairness of this one;
-- to underscore the importance the United States attaches to free and fair elections;
-- to see for ourselves what Philippine elections are like so that we can better understand the judgments that Filipinos make about their elections.

The situation I have outlined is mixed. There are several factors which are very troubling to us. Nevertheless, foreign observers can serve a useful purpose as a significant and important symbol of support to the Filipino voter and to the significant commitment already demonstrated by many thousands of Filipinos to the holding of a free election. Our presence will show the Filipino voter that his or her ability to vote in freedom counts and is important to us. A limited number of

foreign observers will not be able to pass a definitive judgment on the fairness of these elections. The Filipinos will judge for themselves whether the election was credible. Tens of thousands of Filipinos are actively organizing to perform that task. The presence of knowledgeable U.S. observers can support them and help us to interpret the judgments they make.

Mr. Chairman, the United States Government is actively considering sending an official U.S. Government observer team to the Philippine presidential election, independent of the international delegation being considered by the party institutes. We have already been in consultation with you and some of your colleagues in both the Senate and the House regarding this possibility. We will be significantly influenced by the conclusions of this Committee in this hearing as we approach our final decision.

A democratic, stable, and economically healthy Philippines, continues to be an objective in the national interest of U.S. policy. We have political and strategic interests in the Philippines. We have been a key partner in the development of democracy in the Philippines throughout this century. We have a fundamental interest in its success. We recognize that a credible election is no panacea. Major problems will remain. It will be essential for whoever is elected to undertake fundamental reforms if the peoples' expectations are to be realized and the communist insurgency defeated. Nevertheless, a positive response to the invitation of our Filipino friends of all democratic political persuasions for election observers would be one step we could take to assist Filipinos to protect their democratic rights and assure the future stability of their nation.

PREPARED STATEMENT OF RICHARD L. ARMITAGE

MR. CHAIRMAN:

AS WE APPROACH THE VERY CRITICAL PRESIDENTIAL ELECTIONS IN FEBRUARY, IT IS AGAIN ESSENTIAL THAT WE CONTINUE OUR DISCUSSIONS ON THE POLITICAL-MILITARY SITUATION IN THE PHILIPPINES. SINCE MY LAST APPEARANCE HERE IN DECEMBER THERE HAVE BEEN SOME INTERESTING AND NOTEWORTHY DEVELOPMENTS WITHIN BOTH THE INSURGENCY AND THE PHILIPPINE DEFENSE ESTABLISHMENT THAT RELATE TO ELECTION PREPARATIONS.

WITH RESPECT TO THE INSURGENCY, THE COMMUNIST PARTY OF THE PHILIPPINES (CPP) AND ITS ARMED WING, THE NEW PEOPLES ARMY (NPA), APPEAR PREOCCUPIED WITH THEIR OWN ELECTION STRATEGY. BEYOND THEIR STATED INTENTION TO BOYCOTT THE ELECTION, THE PLANS OF THE COMMUNISTS ARE UNCLEAR. WE WOULD NOT BE SURPRISED, HOWEVER, IF THE NPA DECIDED TO INTERVENE IN THE PROCESS -- AS IT DID IN THE 1984 ELECTIONS -- BY ATTEMPTING TO PREVENT VOTERS FROM CASTING THEIR BALLOTS AND BY THE OUTRIGHT THEFT OF BALLOT BOXES. SUCH TACTICS WOULD AIM TO PROMOTE THE IMPRESSION THAT THE ELECTION BOYCOTT IS WIDESPREAD AND, POSSIBLY PROVOKE AN OVERREACTION FROM THE ARMED FORCES OF THE PHILIPPINES THAT COULD BE PORTRAYED AS A COERCIVE INTERVENTION INTO THE ELECTION PROCESS.

WITH RESPECT TO THE AFP'S PLANS, PRESIDENT MARCOS, GENERAL VER, AND LIEUTENANT GENERAL RAMOS HAVE STATED THAT THE AFP WILL REMAIN NEUTRAL DURING THE CAMPAIGN AND DURING THE ELECTION ITSELF. THESE PROCLAMATIONS HAVE BEEN WELCOMED BY THE OFFICERS OF THE

MILITARY REFORM GROUP (RAM) WHO HAVE PUBLICLY STRESSED THE IMPORTANCE OF A NON-PARTISAN ROLE FOR THE PHILIPPINE MILITARY. THESE PROCLAMATIONS OF NEUTRALITY AND THEIR ENDORSEMENT BY THE PHILIPPINE OFFICER CORPS ARE BUT TWO INDICATORS OF PROGRESS IN THE EFFORT TO BURNISH THE TARNISHED IMAGE OF THE ARMED FORCES OF THE PHILIPPINES AND RESTORE PROFESSIONAL MILITARY VALUES AMONG ITS OFFICERS. WHETHER A NEUTRAL POSTURE IS, IN FACT, REALIZED, REMAINS TO BE SEEN. WHAT IS CLEAR, HOWEVER, IS THAT THE AFP ANTICIPATES DISRUPTIONS ON THE PART OF THE COMMUNISTS AND IS PREPARING RESPONSIVE CONTINGENCY ACTIONS.

AS IN PREVIOUS ELECTIONS, REGIONAL SPECIAL ACTION TEAMS OF THE CONSTABULARY AND THE INTEGRATED NATIONAL POLICE (COMPONENT ORGANIZATIONS OF THE AFP) HAVE BEEN "DEPUTIZED" BY COMELEC TO SERVE AS PEACEKEEPING FORCES DURING THE BALLOTING. PRESIDENT MARCOS HAS ANNOUNCED THAT LTGEN RAMOS WILL BE IN COMMAND OF THESE FORCES. GENERAL VER'S TENURE AS CHIEF OF STAFF IS UNCLEAR. LAST WEEK MR. MARCOS SAID THE GENERAL WOULD RETIRE BEFORE THE ELECTION; THIS WEEK THE PRESIDENT APPEARED TO BACK AWAY FROM THIS TIME FRAME, INDICATING DIFFICULTIES IN FINDING A REPLACEMENT. ASIDE FROM THESE PROSPECTIVE PERSONNEL ACTIONS, THERE HAVE BEEN NO FURTHER REASSIGNMENTS OR RETIREMENTS OF SENIOR MILITARY OFFICERS ANNOUNCED SINCE YOUR HEARING LAST DECEMBER.

WHOEVER IS THE LEADER OF THE AFP DURING THE ELECTION, HE MUST UNDERSTAND FULLY THE CRUCIAL IMPORTANCE OF A FREE AND FAIR CONTEST. I HAVE STATED MANY TIMES IN THE PAST, AND I REITERATE

NOW, THAT NOTHING LESS THAN THE CREDIBILITY OF THE AFP AND THE HONOR OF ITS OFFICER CORPS IS AT STAKE DURING THE CAMPAIGN AND THE ELECTION. IF THE AFP FUNCTIONS AS A POLITICAL INSTRUMENT FOR EITHER SIDE, THEN IT DESERVES TO BE CONDEMNED, BECAUSE SUCH ACTION WOULD BE INCONSISTENT WITH ITS CONSTITUTIONAL ROLE AND IN CONFLICT WITH ITS PROFESSED DESIRE TO SUPPORT DEMOCRATIC PROCESSES.

ON THE OTHER HAND, IF THE AFP REMAINS NEUTRAL, AND LIMITS ITS ACTIVITIES TO A NON-PARTISAN SECURITY ROLE, THEN IT SHOULD BE PRAISED AND SUPPORTED, NO MATTER WHO TRIUMPHS IN THE ELECTION. I WOULD HOPE THAT THE CONGRESS WOULD AGREE WITH THIS JUDGMENT AND WOULD REWARD A CONSTRUCTIVE PERFORMANCE BY THE AFP WITH THE FULL AMOUNT OF THE ADMINISTRATION'S REQUEST FOR SECURITY ASSISTANCE.

AS I HAVE SAID MANY TIMES IN THE PAST, THE PHILIPPINES WILL NEED AN EFFECTIVE, PROFESSIONAL AFP REGARDLESS OF THE RESIDENT OF MALACANANG PALACE. OUR SECURITY ASSISTANCE CAN MAKE A SUBSTANTIAL CONTRIBUTION TO THE DEVELOPMENT OF SUCH A PROFESSIONAL MILITARY ORGANIZATION AND, IN MY VIEW, WE ARE MORALLY OBLIGATED TO PROVIDE SUCH ASSISTANCE IF THE AFP SHOWS ITSELF TO BE A DEFENDER OF THE CONSTITUTION AND A PILLAR OF SUPPORT FOR DEMOCRATIC INSTITUTIONS.

ONE ADDITIONAL POINT NEEDS TO BE MADE ABOUT THIS PRESIDENTIAL ELECTION. THERE SOMETIMES ARISES FROM THE HEAT OF A POLITICAL CAMPAIGN A TENDENCY TO SEE THE ELECTION ITSELF AS A CATHOLICON FOR THE PROBLEMS OF A NATION. BUT AN ELECTION BY ITSELF WILL NOT SOLVE THE SERIOUS CRISES WHICH BESET THE PHILIPPINES. REGARDLESS OF THE OUTCOME OF THE ELECTION, THE PROBLEMS OF THE ECONOMY, OF

RESPECT FOR DEMOCRATIC INSTITUTIONS, OF THE COMMUNIST INSURGENCY WILL CHALLENGE THE SURVIVAL OF A FREE PHILIPPINE NATION. THE PHILIPPINE PRESIDENT'S ABILITY TO ADDRESS THESE CRISES WILL DEPEND ON SEVERAL KEY FACTORS. FIRST, THERE MUST BE PUBLIC CONFIDENCE IN THE VALIDITY OF THE ELECTION OUTCOME. SECOND, THE VICTOR MUST BE WILLING TO INSTITUTE THE MEANINGFUL POLITICAL, ECONOMIC, AND MILITARY REFORMS ABOUT WHICH SO MUCH HAS BEEN SAID DURING THE CAMPAIGN. THIRD, THERE MUST BE AVAILABLE SIGNIFICANT EXTERNAL ASSISTANCE FOR THE GOVERNMENT TO COPE WITH THE ECONOMIC CRISIS AND MILITARY NEEDS STEMMING FROM THE COMMUNIST INSURGENCY. WE DO NOT BELIEVE, HOWEVER, THAT THE THIRD FACTOR -- THE AVAILABILITY OF SIGNIFICANT EXTERNAL ASSISTANCE -- WILL HAVE SALIENCE IN THE PHILIPPINES IN THE ABSENCE OF A COMPREHENSIVE PROGRAM OF MEANINGFUL REFORMS. SO, THESE FACTORS ARE INEXTRICABLY TIED. THEY HIGHLIGHT THE POINT THAT THE ELECTION IN THE PHILIPPINES IS NOT THE END OF THE PROCESS OF RESOLVING THESE CRISES, BUT IT CAN MARK A BEGINNING.

ANALYSIS OF CAM RANH BAY

Question: Please provide an analysis of what is happening at Cam Ranh Bay, what the Russians are doing there and how that effects the strategic importance of our Philippine facilities.

Answer: The value of the facilities as an offset to the Soviet presence at Cam Ranh Bay has increased with the expansion of the Soviet forces there. Moscow has invested heavily in new and improved airfield and port facilities, indicating that they intend a long presence. Approximately 30 naval units operate daily in the South China Sea, including surface combatants, conventional and nuclear powered submarines, and naval auxiliaries. Soviet long-range TU-95 BEAR reconnaissance aircraft maintain a constant presence at Cam Ranh and are periodically detected operating over sea lanes in the South China and Philippine Seas. Last year, the Soviets increased their TU-16 BADGER strike aircraft at Cam Ranh Bay and added a squadron of MIG-23 FLOGGER fighter aircraft. Soviet signal intelligence facilities in Vietnam, combined with reconnaissance aircraft operating from Cam Ranh, provide Soviet forces with significant capabilities to monitor US military activities throughout the region. Port facilities in Vietnam also enhance Soviet capabilities to deploy forces in the Indian Ocean. Operating from their bases in Vietnam, Soviet air and naval forces could strike US military units and facilities in the Pacific as well as interdict sea lanes of communication in the South China Sea and between the Pacific and Indian Oceans.

Despite this impressive buildup, the net political advantage to the Soviets has been minimal, if nonexistent. The reason is that the US is still perceived, correctly, to be capable of projecting superior forces into the area, if needed, and to demonstrate, by maintaining forward deployed forces in the region, that it is willing to do so if its vital interests are threatened. Take away the US presence in the Philippines, however, and move it north and east to Guam and the Northern Marianas and this equation would change remarkably in Southeast Asia.

National Democratic Institute
for International Affairs

National Republican Institute
for International Affairs

REPORT ON THE FEASIBILITY

OF AN

INTERNATIONAL DELEGATION TO OBSERVE THE

FEBRUARY 7 PEILIPPINE ELECTION

Based on a January 5-11, 1986
visit to the Philippines by a
joint delegation of the two Institutes.

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EXECUTIVE SUMMARY

A bipartisan delegation sponsored by the National Republican and Democratic Institutes for International Affairs visited the Philippines January 5-11. The purpose of the visit was to assess the feasibility of sending an international group to observe the February 7 election and to review steps being taken to safeguard the integrity of that election. Meetings were held with the key official and non-official organizations that will administer and monitor the election.

Of particular importance to the delegation were: (1) preparations being made by the Commission on Elections (COMELEC); (2) the administration of the electoral code in the pre-election period; (3) the registration of voters; and (4) the willingness of the government, the military, the contesting parties and various citizens' groups to cooperate with an international observer team.

Our summary conclusions about these matters are as follows:

-- The electoral processes established by laws and regulations for the conduct of balloting and for the tabulation of votes provide a comprehensive framework for the administration of a procedurally correct election. The laws and regulations also contain provisions encouraging a fair electoral campaign. Taken as a whole, these laws and

regulations compare favorably with those of other democratic countries. The actual implementation of the electoral procedures by local, provincial and national election officials on election day and during the counting phase is a key factor in the conduct of a "free and fair" election. Wholesale vote buying, intimidation, and fraud in the balloting and counting phases can be detected by accredited monitoring groups. It, therefore, should be possible for an international group working with Filipino authorities and accredited citizens' groups to evaluate the fairness of this phase of the electoral process.

-- The registration of voters which occurred on December 28 and 29, 1985, produced a number of "statistical improbabilities" according to COMELEC, and these were being investigated. All voter lists were to have been purged of illegal registrants by January 15, "Revision Day." Because we departed Manila on January 11, we were not able to evaluate fully COMELEC's actions to ensure the integrity of the registration process. We note, however, that other election procedures are in place which could be used to detect double voting, "ghost" precincts, "flying voters" and other irregularities stemming from fraudulent registration practices.

-- Only a few complaints of specific campaign-related incidents were related to the delegation prior to its departure. We have noted reports of what appear to be an

increase of such incidents in the week since we left. An international observer delegation should interview individuals affected by alleged pre-election intimidation and vote-buying, seek to determine whether complaints are being presented to the responsible authorities and whether these complaints are being investigated and adjudicated promptly and effectively. If an obvious and discernable pattern emerges, this could greatly influence an evaluation of the conduct of the electoral process, even if the balloting and counting phases are conducted in accordance with the law.

-- According to many accounts and our own less than scientific observation, access to radio and television is not being equally divided between the two major parties. This is a controversial issue in the campaign and could impact on the outcome. An unequal distribution of television coverage appears attributable to stations refusing to sell time "to either party," but then providing extensive coverage of President Marcos' campaign during news segments. However, at the time of our departure, the opposition had filed only one complaint with COMELEC involving two specific cases of one-sided television coverage. A more aggressive posture by the opposition in seeking redress through COMELEC and by COMELEC in administering the "equal time" provisions in the electoral code during the last weeks of the campaign could ameloriate

some of the unfair allocation of overall media time in favor of President Marcos' KBL Party.

-- Free election time -- "COMELEC Time" -- began on television January 8, and a published listing of the schedule for the week of January 13, indicated that this "free" time would be allocated equally to the two major parties. The limited amount of time thus far acquired by COMELEC for partisan activity by the two major candidates is unlikely to overcome imbalances which may exist in media coverage.

Typically the power of incumbency can influence the amount of space print journalists give to one party or the other. It should be noted that the Philippine press is strongly partisan in nature and that coverage is often reflective of editorial policy rather than considerations of newsworthiness. Some concern exists in the Philippines about the influence used to prejudice print media coverage of the campaign. It was beyond the competence of this delegation to determine the pervasiveness of that influence or its impact on the campaign.

-- The delegation was encouraged to organize an international observer effort by the two major parties and leading Filipino citizens' groups. Despite some expressions of concern regarding the "intervention" of foreigners in the

Filipino electoral process, the delegation received adequate assurances from all sides that an international observer group would receive the cooperation it would need to monitor and evaluate the February 7 election.

Given the above considerations, our Institutes have decided to assemble a forty-member joint delegation of international observers for the February 7 election. This delegation would be comprised of high-level party leaders from many of the world's democratic nations. It is our belief that such a delegation can contribute to the conduct of a free and fair election, will be instrumental in determining international opinion about such an election, and will serve to underscore the vital role a credible electoral process can play in bringing about political stability in the Philippines.

I. INTRODUCTION

A six-member delegation representing the National Republican and Democratic Institutes for International Affairs visited the Philippines January 5-11, 1986, to determine the feasibility of sending a multi-national group of political party leaders to observe the February 7 presidential election. The delegation was co-chaired by the executive directors of the National Democratic (NDI) and Rebublican (NRIIA) Insitutes for International Affairs, Brian Atwood and Keith Schuette, respectively. They were accompanied by Robert Henderson, Program Director of NRIIA, Curtis Wiley, Development Director of NDI, Larry Garber, International Human Rights Law Group, and Howard Penniman, American Enterprise Institute. The group has extensive experience in democratic development work and the conduct and monitoring of elections. Mr. Garber and Mr. Penniman are internationally recognized experts in election observering.

In addition to meetings in Manila with the leading participants in the electoral process, the delegation divided into three teams of two for visits to four provinces which will be "critical" in the coming election and examined the local environment in discussions with a variety of officials and citizen-group representatives. Prior to its departure from the Philippines, the delegation issued a statement on its findings relating to the February 7 elections. (Delegation Departure Statement, Annex I.)

A. Background

NRIIA and NDI were established in 1983 to work with individuals and organizations overseas to strengthen democratic processes, values and institutions throughout the world. The Institutes have developed extensive contacts among party officials in a number of democratic nations and plan to use these contacts in organizing an international observer mission to the Philippines.

As political development institutes, NDI and NRIIA are particularly interested in strengthening democratic electoral processes by working with indigenous democratic groups. The Institutes are non-partisan in their choice of overseas projects and are prohibited from supporting candidates or parties in elections. NDI and NRIIA recognize that the integrity of the electoral process is vital in democracies and have been attracted to this project because of the importance of a free and fair election in a nation which, despite its rich democratic traditions, recently has experienced martial law and an unstable political situation.

President Marcos announced in early November that he would agree to hold a "snap" election for the office of the Presidency. President Marcos pledged on U. S. television that the election would be free, fair, and credible and that international observers would be welcome to monitor the election. The Philippine Congress, the Batasang Pambansa, enacted Cabinet Bill No. 7 on December 3, 1985, setting the election for February 7 and establishing the legal code which will govern the electoral process.

The conduct of the February 7 election will be critical in determining the future political stability of the Philippines. Any repetition of past patterns of fraud and intimidation will limit the unifying potential of the election and likely serve to polarize the society further. On the other hand, a free, fair, and credible election holds great promise for carrying the nation through a very difficult period by providing a vehicle for legitimizing popular expression.

With these considerations in mind, NDI and NRIIA sent a delegation to the Philippines to determine the feasibility of organizing an international observer mission to monitor and evaluate the February 7 election. Key objectives for the mission included:

-- To assess the authority and capacity of various indigenous groups to monitor the elections adequately and fairly, including arrangements and guarantees for their full and pervasive access to polling and tabulation places;

-- To determine, after discussions with leaders of these organizations and the major political parties, the value and role of an international observer team; and

-- To review the electoral process and the adequacy of various safeguards against fraud established by the Philippines government through the Commission on Elections (COMELEC).

We were able to accomplish these objectives in a series of meetings. The bipartisan delegation discussed the international observer mission and reviewed the electoral process in meetings with the Commission on Elections (COMELEC), the National Citizens' Movement for Free Elections (NAMFREL), the Integrated Bar of the Philippines, the Jaycees, Rotary and other citizens' groups, the Philippines Armed Forces and representatives of the two major political parties. Our schedule was highlighted by meetings with President Ferdinand Marcos and his electoral challenger, Mrs. Corazon Aquino, both of whom welcomed our delegation and promised cooperation with a subsequent observer group. Both also expressed their desire to conduct a free and fair election that would meet with accepted international standards. (Delegation Schedule, Annex II.)

Upon the delegation's departure from Manila, co-chairmen Brian Atwood and Keith Schuette met with representatives of the Philippines and international press. The purpose of the joint statement was to demonstrate bipartisan agreement on the importance of the mission and to thank the various individuals and organizations with whom we met. It was also pointed out that democracies often exchange observers and work together to preserve the electoral process as a fundamental institution. This was meant to address the concerns expressed by some that "foreign interference" might be the ulterior motive of some observer groups. It was, of course, helpful to point to the warm invitations extended by the presidential candidates to the observer mission and to the cooperation received from all sides during the visit. (January 11 Press Conference Transcript, Annex III.)

B. The Center for Democracy Report

Our group was aided by the work of an earlier bipartisan delegation to the Philippines sponsored by the Center for Democracy, which undertook its mission at the request of the Senate Foreign Relations Committee. The report of the Center's December 7-14 mission, issued on December 18, 1985, provided a basis for discussions of the electoral process and offered valuable insights as we pursued our separate and somewhat different task.

It was clear that the Center's report made an impact on COMELEC, contributing generally to an appreciation that foreign observers from democratic nations wanted to share information and experiences in safeguarding the electoral process. At the same time, it was understandable that these officials would be sensitive to any suggestion that their intentions or competence were in question. COMELEC was particularly concerned that our mission might be a follow-up to the Center's visit, undertaken at the behest of the Senate Foreign Relations Committee and part of a general effort to link U.S. aid to an evaluation of the election. At our initial meeting, several of the commissioners expressed their concerns on this point and issued warnings against "foreign interference." The issue of foreign interference also was mentioned in the press during the week of our visit.

The delegation made it clear that our group had not been sent by the U.S. Senate, though we had been asked to testify about our findings. We also pointed out that, as non-governmental organizations, we had no policy role within the U.S. government and that our intention was to explore the prospects for organizing an international observer delegation.

In the initial meeting with COMELEC, we were given a document rebutting certain information included in the Center's report. At the same time, a number of positive developments had occurred since the report was issued, and these were readily underscored by COMELEC officials. (COMELEC Rebuttal to CFD Report, Annex IV.)

The Center's report cited eight "requirements and conditions" which in the view of the authors were "critical" in determining the fairness of the February 7 election. Following is a brief summary of action taken on these points (a fuller discussion of the electoral process and areas of vulnerability forms the body of our report and appears later):

1. COMELEC should provide national accreditation for the National Citizens' Movement for Free Elections (NAMFREL): NAMFREL was nationally accredited by COMELEC on December 24, 1985.

2. President Marcos should appoint two additional members to COMELEC in time to join deliberations on 1986 election procedures: These appointments have not been made.

3. The UNIDO Party should be accredited as the Dominant Opposition Party (DOP) (which under the election code has the right to monitor and participate on canvass boards): UNIDO was designated as the DOP on December 20, 1985.

4. Enforceable guarantees of equal access to media for the DOP shall be provided, as stipulated in the Election Code, including the allocation of substantial free radio and television time (COMELEC time) and free space in print media (COMELEC space): On January 9, 1986, UNIDO filed a complaint with COMELEC regarding equal access to the electronic media and partisanship in its news coverage. COMELEC time on television was released on January 10, and the printed schedule indicated that this time would be allocated equally between parties. At the time of our departure, there had been no procurement of COMELEC space in the print media.

5. COMELEC should provide enforceable guarantees of reasonable access to paid radio and television time and newspaper space for the DOP: This continues to be a serious problem area; a full discussion of the issue appears later.

6. COMELEC should provide "close and appropriate" supervision of all military and para-military forces to assure against their use for partisan purposes, intimidation during the voting process, or ballot fraud: Appropriate instructions have been issued to military and para-military units, and we were assured that COMELEC would possess the necessary authority to maintain control and enforce the Elections Code (this is an area of concern that will be discussed more fully).

7. The quickest possible counting of ballots should occur throughout the country: On January 6, COMELEC announced that it would not be able to conduct its "Super Quick Count" program because of technical problems in installing the system on such short notice; however, the commissioners did commit themselves to conducting as quick a count as possible. NAMFREL is planning to conduct a "quick count" operation similar to what they conducted in the 1984 Batasang Pambansa (congressional) elections; COMELEC's attitude toward the NAMFREL "quick count" was unclear when we left the Philippines.

8. The government should establish an international observer process: Our delegation found the government and all other relevant parties amenable to the presence of international observers, subject to the provisions of the Philippines Election Code. A COMELEC resolution was adopted on January 10 establishing guidelines for foreign observers (See Annex XII; the Res. is discussed in Sec. 5 infra).

Several other issues were raised in the Center Report and most are dealt with elsewhere in this report. The Report provided the informational foundation for our mission, and we are grateful to our colleagues from the Center delegation for the contribution they made to an understanding of the preparations necessary for a free, fair, and credible election.

II. INSTITUTIONAL SETTING

Following the lifting of martial law in 1981, an election for President was held pursant to the Philippines constitution adopted in 1973. With the leading opposition parties not participating, Ferdinand Marcos won the election by an overwhelming margin.

In 1983, Benigno Aquino was assassinated as he returned from exile. An independent commission, established by the government, concluded that high-level, army officials, including chief-of-staff Fabian Ver, were legally responsible for the Aquino murder. Following the murder, the willingness of Filipinos to express publicly their discontent with the Marcos government increased greatly.

Elections for the Batasang were held in 1984. While segments of the opposition chose to boycott the election on the grounds that conditions for a fair election were absent, the UNIDO party, led by Salvador Laurel, mounted a serious campaign. The results provided the party led by President Marcos, the KBL, with two-thirds of the seats in the Batasang. While the elections were viewed as "fairer" than previous Filipino elections, in part as a result of the work of the newly formed NAMFREL, assessments of the elections by NAMFREL officials indicated that elections for only 65% of the seats "were sufficiently free from anomalies to be considered valid." (NAMFREL Evaluation of 1984 Batasang Election, Annex V.)

The situation in the Philippines has continued to deteriorate since the 1984 election. The economy is in serious trouble, and the insurgency led by the New People's Army (NPA) continues to grow.

As reported in the U.S. Department of State Human Rights Reports, serious human rights violations committed by the Philippine military and the insurgents have continued after the lifting of martial law.

It is against this backdrop that President Marcos announced his intention of seeking a "snap" election. On November 11, 1985, President Marcos submitted a letter to the Batasang requesting that it enact legislation calling for a snap election, and indicating that he would resign the presidency following the election if another candidate was proclaimed the winner. On December 3, 1985, the Batasang enacted the legislation necessary to set the process in motion for a "snap" election.

The legislation was challenged by several groups as being unconstitutional in view of the fact that there was no presidential vacancy at the time the election was scheduled. On December 19, 1985, the Philippine Supreme Court rejected the petition by a vote of seven to five. The majority relied primarily on the fact that it appeared that the Filipino people sincerely sought the opportunity to participate in the "snap" election, and that the Supreme Court should not thwart the popular will.

The significance of the 1986 presidential election is highlighted by the fact that President Marcos chose as his running mate, Arturo Tolentino, a former critic of the President, and that the leading opposition parties have united behind a ticket led by Mrs. Corazon Aquino and Mr. Salvador Laurel. While significant segments of the Filipino left are refusing to participate in this snap election on several grounds, many liberal-oriented politicians, including such notables as former Senators Tanada and Salonga, have been actively supporting the ticket led by Mrs. Aquino.

Filipinos, for the most part, appear excited about the upcoming elections. The degree of public mobilization for the elections, through partisan political activity or through participation in one of several volunteer citizens groups, is quite impressive, particularly by U.S. standards. Filipinos are aware of the election's significance and recognize that the entire world will be watching how the election is conducted.

III. THE ELECTION LAW AND COMELEC PROCEDURES

The immediacy with which the special presidentional election was called has resulted in legal and procedural actions which deserve close scrutiny. The following is a presentation of:

A. the law and procedures which will be utilized in conducting the February 7 presidential election;

B. potential areas of vulnerability relating to the actual conduct of the balloting, counting and proclamation process; and

c. the key issues which must be monitored during the period immediately preceding, during and quickly following election day.

A. The Election Law

The laws governing the "snap" election include Batasang Pambansa BLG. 883 (BPB 883 - referred to also as Cabinet Bill 7), and the provisions of the Omnibus Election Code of the Philippines (BPB 881 -- hereinafter Code); both bills were approved on December 3, 1985. In addition, COMELEC has authority to adopt rules and regulations "as may be necessary to ensure the holding of a free, honest, orderly and credible election" (BPB 883, sec. 13). As of January 10, 1986, COMELEC had promulgated twenty-six regulations governing the special presidential election. (COMELEC Resolutions Promulgating February 7 Special Election for the Presidency, Annex VI.)

The Code and COMELEC regulations provide a comprehensive framework for the administration of a procedurally correct election. There are numerous provisions designed to protect against fraud and, if fraud occurs, to permit its detection. If problems arise in this area, it will be in the implementation of these procedures by election officials. Further, there are several provisions designed to encourage a fair campaign. However, some of the campaign-related provisions may be unrealistic in the context of this election campaign and, hence, are likely to be ignored.

The Center report describes the constitutional and election law framework for the "snap" election (CFD, pp. 13-29). The following describes the procedures which are being followed in conducting the election.

1. Pre-election Phase

a. Registration of Voters: All Filipino citizens who are qualified to vote are required to register (Code, sec. 54). In 1984, there were 24 million registered voters, 88.7% of whom voted. [According to COMELEC, no one was prosecuted for failing to register or to vote in 1984. In 1981, 253 cases were filed in court against individuals for failing to vote. Report of the Commission on Elections (1981).]

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Those who registered in 1984 were not required to register again for the special election (Code, sec. 113). The registration of new voters was initially scheduled for December 21 and 28, 1985 (BPB 883, sec. 6). Because of various delays, COMELEC postponed registration until December 28 and 29, 1985 (Res. 1738).

Registration reportedly was conducted in an orderly fashion. While the political parties were not represented at the registration sites, NAMFREL watchers monitored the process. Following the registration days, a new list of voters was prepared by the Board of Election Inspectors (BEI), including those who registered in 1984 and those who registered last month (Code, sec. 121). On January 15, the BEI was scheduled to meet for the purpose of finalizing the voter list (BPB, sec. 7).

Two problems were raised regarding the registration process. First, the requirement that four photographs be produced by a registrant (Code, sec. 126) was viewed as onerous, particularly in certain remote areas of the country. The Filipino newspapers reported that several regional election supervisors requested COMELEC to provide an additional registration day and to ease the photograph requirement. COMELEC officials also reported a petition by the opposition party that the onerous four photograph requirement be lifted to allow a more comprehensive registration. With some ensuing confusion, this was done and the registration proceeded. Given the short period before the election, COMELEC appeared reluctant to order an additional registration day.

A more serious problem revolved around reports of fraudulent registration. In Makati, a district in the metro Manila area, the number of registered voters in 1984 was 325,632. Yet, according to COMELEC, the projected number of those eligible to vote in Makati in 1984 was 251,875. An analysis by a COMELEC official indicated that 616 thumb marks on voter affidavit forms were made by 60 voters (i.e., an average of one thumb mark per ten voters). The COMELEC analysis also indicated 27 individuals living at one address with identical birthdays and 206 registered voters living in one house.

The manner in which the Makati and similar disputes are resolved will be an important indicator of both the effectiveness of election laws, and the intentions of those involved. Even if COMELEC resolves the Makati problem, padded registration lists in other cities and municipalities will have to be investigated and purged in the little time remaining before the election. There are other safeguards, however, which if implemented should ensure against double-voting; these are discussed below.

b. Preparation of Voting Materials: Because of the short time involved, COMELEC began immediately after the election was scheduled to prepare the necessary materials (Res. 1728, 1734, 1741). A special committee, headed by Commissioner Bacungan, was assigned the responsibility for the preparation of the official ballots, election returns and other materials (Res. 1732). NAMFREL representatives were present during the preparation of these materials and reviewed the auditing procedures used to ensure that excess ballots or election return sheets were not prepared (Res. 1741).

During the period of the delegation's visit, COMELEC began distributing the election materials to the remote provinces. There, the provincial treasurers assumed custody of the materials (Res. 1725). NAMFREL charged that it had not been notified that the materials were being disbursed, but did not appear overly concerned given other safeguards in the process.

c. Other Actions by COMELEC: Pursuant to its broad authority, COMELEC has issued regulations regarding the prohibition of certain activities during the campaign period, including: the appointment or transfer of certain public employees (Res. 1735); the illegal release of prisoners (Res. 1739); the appointment or use of special policemen or agents (Res. 1743); the distribution of public works projects (Res. 1744); and the possession of firearms unless authorized by COMELEC (Res. 1745). Violation of any of these resolutions constitutes an election offense, punishable by one to six years imprisonment (Code, sec. 264). If enforced in an orderly, non-partisan manner, these guidelines can alleviate some of the "pre-balloting" issues.

2. **Election Day**

a. Voting Process: As is the rule in other countries, campaigning must terminate at least one day before the election. On February 7th, the polls are scheduled to open at 7:00 a.m. and to close at 3:00 p.m. (Code, sec. 190). Approximately three hundred voters are assigned to each election precinct (Code, sec. 150); depending on the final registration figure, COMELEC expects there will be over 92,000 precincts.

The precincts generally are in public buildings, often in schools (sec. 154). A polling site can consist of one or more precincts. A Board of Election Inspectors (BEI) is responsible for administering the election at the precinct level. The BEI consists of a chairperson, a poll clerk, and two members designated by the ruling party and the dominant opposition party respectively (Code, sec. 164). The chair and the poll clerk are public school teachers (id.).

During voting hours, those permitted access to the polling place include the BEI, a watcher designated by each registered party, a watcher of the duly accredited citizens arm (i.e., NAMFREL), and a single watcher appointed collectively by several other organizations which have received COMELEC authorization (Code, secs. 192, 178, 180). (Polling Place Sketch, Annex VII.)

Members of the armed forces of the Philippines and any other armed person are prohibited from entering within fifty meters of a polling place, except to vote (Code, sec. 192). Similarly, foreign observers and members of the media are excluded from polling sites (Res. 1747). (See discussion Section 5 infra.)

By the time the polls open, the ballot box should have been checked to ensure that it is empty. The delegation was told that ballot boxes in all precincts would have one transparent side so that poll-watchers could be certain that the box was empty when the balloting begins. During the entire balloting process, the box is locked with three padlocks. The chair and the party members of the BEI each hold one of the three keys during the voting (Code, sec. 119).

Upon being identified as a registered voter at the appropriate precinct, the voter is handed a ballot. The voter will be directed to a

booth, where he or she will write in the name of the presidential and vice presidential candidates of his or her choice; cross-party voting is permitted.

If the voter writes only the name of the presidential candidate, the ballot will be counted both for the presidential candidate and his or her running mate; a ballot containing the name only of a vice-presidential candidate, however, will be counted only as a vote for vice-president (Code, sec. 211.28). There are no designated names that must be written on the ballot for it to be counted for a particular candidate (i.e., a ballot with the word "Ferdinand" or "Marcos" would be counted for President Marcos; similarly, ballots with the words "Cory", "Corazon", or "Aquino" would be counted as votes for Mrs. Aquino.)

The Code emphasizes that ballots should "be presumed valid" and "that the object of the election is to obtain the expression of the voter's will" (Code, sec. 211.20).

After the ballot is marked, the voter folds the ballot and returns it to the chair who, without opening the ballot, verifies that the number on the ballot corresponds to the number in the voting record, detaches the coupon with the number from the ballot, and deposits the ballot in the ballot box (Code, sec. 198). The chairman also marks the voter's right forefinger with an indelible solution to prevent double-voting and requires the voter to affix his or her thumb mark on the coupon of the ballot and in the voting record (id.).

b. Counting Process: The counting of the ballots commences as soon as the poll closes (i.e., as near to 3:00 p.m. as possible). COMELEC estimates that approximately 300 ballots can be counted in a two to three hour period.

After all the ballots and spoiled ballots are counted, the chair records each ballot. The poll clerk marks the votes per candidate on a tally board, visible to all watchers and the third member of the BEI marks the votes on an Election Return Sheet (Code, sec. 210). After the counting is complete, the votes are added and each member of the BEI places his or her thumb marks on the Election Return following the total number of votes recorded for each candidate (Code, sec. 212).

Six copies of the Election Return are prepared (carbonless paper is used). The returns are placed in envelopes and the copies are distributed according to the following process: 1) included with the ballots in the ballot box; 2) the original to the provincial election supervisor, via the municipal election registrar or to the city election supervisor in cases of cities; 3) COMELEC; 4) the ruling party; and 5) the dominant opposition party (Code, sec. 214). (The code does not appear to provide for the distribution of the sixth copy.) Further, the BEI is required to issue a signed certificate of the number of votes received by each candidate to the accredited watchers (Code, sec. 215). The ballot box is then transported to the city or municipal treasurer who must keep the box locked for three months (Code, sec. 219).

c. Fraud Protection Devices: Because of allegations of fraud in past Filipino elections, several of the provisions of the Code have been adopted specifically as fraud prevention devices. These include: the presence of watchers at all stages of the voting process; the use of ballot boxes which are transparent on one side (to prevent stuffing of the votes prior to voting); the numbering of ballots (to prevent a voter from entering a polling site with a pre-marked ballot); the application of indelible ink to

each voter's fingernail (to guard against double-voting); the number of election return sheets (to make it difficult to substitute a phony sheet); and requiring each member of the BEI to place his or her thumb mark on the election return sheets (to prevent tampering with the sheet after the count is complete). As discussed below, the system remains potentially vulnerable to fraud in several places.

3. Post-election Period

Following the count at the precinct level, copies of the election returns in the case of the forty-plus "chartered" cities are transported directly to the city canvassing centers. All other election returns are transported to the municipal election registrar, who collects the election returns for his or her constituency, places the returns in a sealed ballot box, and transports them to one of ninety-one provincial canvassing centers. The city and provincial canvassing centers are administered by a Board of Canvassers, which consists of a COMELEC official, two school administrators, and representatives of the ruling and dominant opposition parties (Code, sec. 221).

The Board of Canvassers meets not later than 6:00 p.m. on election day and remains in session continuously until all precincts are canvassed, unless, because of delays, the returns of certain precincts have not been received (Code, sec. 231). It is estimated that barring delays in transporting election returns or disputes over the validity of particular returns, the canvassing should be completed by mid-day February 8. The results from each precinct are included in a Certificate of Canvass, which is sent on to the Batasang Pambansa for final tally and proclamation.

The Board of Canvassers is authorized to rule by majority vote on all questions relating to the validity of an election return. A party may contest a decision of the Board of Canvassers if it objects verbally at the time the ruling is made and a written petition is submitted within 24 hours. After issuing an oral decision regarding the objection, the Board prepares a written explanation of its ruling. To contest the Board's ruling before COMELEC, a party must indicate to the Board immediately that it intends to appeal. Only after COMELEC reviews the matter will the results of the Board of Canvassing be proclaimed officially (Code, sec. 245).

Five copies of the Certificate of Canvassing are prepared and distributed as follows; 1) the original to the speaker of the Batasang; 2) COMELEC; 3) Provincial Election Supervisor; 4) ruling party; and 5) dominant opposition party. The Batasang must begin its canvass within thirty days of the election (i.e., March 9, 1986), (Code, sec. 16), and it must proclaim the winner within fifteen session days after the canvass begins (BPB 883, sec. 10).

Under the terms of President Marcos' letter to the Batasang requesting the snap election,the President would vacate his office a) the Batasang proclaimed his opponent the winner and b) following her taking the oath of office, which would be ten days after the proclamation (BPB 883, sec. 2). Thus, under the terms stated in the President's letter and approved by the Supreme Court in its decision of December 19, 1985, unless exceptional circumstances arise, if President Marcos wins, no vacancy will arise and he begins a new six year term which would expire June 20, 1992 (BPB 883, sec. 2). If Mrs. Aquino wins, she should take office no later than April 3, 1986. (President Marcos' Letter to the Batasang Pambansa Requesting Special Election for the Presidency, Annex VIII.)

A delay may be caused by appeal of the election results to the Presidential Election Tribunal (PET) established by BPB 882. The PET is composed of nine members: three Supreme Court justices, including the Chief Justice and two of his designated associates; three individuals selected by the ruling party; and three individuals selected by the dominant opposition party. The PET has up to one year to decide all election challenges.

B. Vulnerable Areas in Election Procedures

Given the history of elections in the Philippines, considerable attention has been devoted to the development of the body of law and institutions governing Philippine elections to systems which provide multiple safeguards against fraud or manipulation of the vote. A discussion of the systemic vulnerabilities of the Philippine election procedures must hinge on the counting phase. Electoral fraud on a scale significant to alter electoral outcome would be affected most easily after the ballots are cast.

For this reason, the delegation was urged to focus attention on the canvassing stage where "wholesale" fraud, that is manipulation of the vote totals after the votes have been cast, can occur on a national scale and alter election outcomes away from the glare of election day scrutiny.

1. Voting Phase

The "retail" fraud occurring at the precinct level in past Filipino elections (as is true in other countries), has included "flying voters," "ghost precints," stuffing ballot boxes, and the intimidation of voters, election officials and poll watchers. These abuses, which offend the norms and standards of democracy, must be carefully monitored to insure that all voters have an opportunity to cast a meaningful ballot.

a. Composition of Board of Election Inspectors (BEI): The BEI is composed of two school teachers and representatives of the ruling party (KBL) and DOP (UNIDO). The BEI serves as the first "judicial" line of defense against fraud at the precinct level. Thus its deliberations and dispute resolution are critical to the conduct of honest elections.

Allegations have been raised in the past that some of the 90,000 BEI's have been less than even-handed in their deliberations as a result of favoritism, bribery, and intimidation. For this year's election, both parties indicated that they will have a representative on each BEI and a poll watcher for most precincts. There remains a concern that in cases involving challenges to a voter's qualifications or determining, during the counting phase, for whom a ballot was cast, the BEI might act in a partisan fashion. However, NAMFREL, UNIDO, and the KBL appear to be more effectively mobilized for the upcoming elections than was the case in 1984. This mobilization can have an impact in both detecting and deterring instances of BEI abuse of the precinct voting/counting process.

b. Flying Voters: During previous elections in the Philippines the phenomena of "flying voters" has developed. A flying voter is an individual who registers in several precincts under different names and on election day votes several times. The indelible ink which is to be applied to each voter is designed to prevent double-voting. However, in 1984 the ink supplied proved easily removable, some BEI officials neglected to place the ink on the fingers of voters, and some ignored its obvious presence. The uniform use of indelible ink should prevent double-voting even if the voting lists are not universally purged prior to the election day.

c. Ghost Precints: A "ghost precinct" is a precinct which has not been designated by COMELEC, but obtains voting materials and records a fictitious vote count. The origin of these ghost precincts is unclear in past elections. However, it is speculated that new precincts could be created following the closing of the voter list (i.e., January 15, 1986). On January 11, the estimated number of precincts ranged from 91,000 to 93,000.

d. Siting of Polling Place: Considerable attention in the Philippines was given to the location of polling places, especially when they were in some proximity to, or were inside, a military compound. The Election Code prohibits the location of a polling place "within the perimeter or inside a military or police camp or reservation or within a prison compound" (Code, sec. 155). Most Filipinos with whom we spoke, assumed that polling for soldiers and their dependents would be permitted in military camps. Party and other poll-watchers must be granted access to these polling sites on election day to ensure against fraud and the intimidation of military personnel by their officers.

e. Presence of Barangay Officials in the Polling Site: The Philippines has over 44,000 Barangays (wards); an elected Barangay captain serves as the administrative head of each Barangay. Barangay captains can exercise considerable influence over the citizenry of their Barangay. Because their presence was viewed as intimidatory, in 1984 COMELEC passed a resolution prohibiting Barangay captains from serving on the BEI or as watchers. (COMELEC 1984, Res. 1665, sec. 1.)

When the Batasang revised the Election Code this past year, it specifically declined to prohibit Barangay captains from serving as members of the BEI. In view of this, COMELEC decided that it should not override the legislative decision and prohibit Barangay officials from serving on the BEI or as party poll watchers.

The delegation received no figures as to how many Barangay officials served on their respective BEI's during the registration period nor how many were likely to be designated as poll watchers. The role Barangay officials play both within and without the polling sites on election day deserves careful monitoring.

f. Role of Civil Home Defense Forces (CHDF): According to a variety of sources including the U.S. State Department of State Human Rights Report, the CHDF forces have been responsible for serious abuses against citizens. In some cases, the CHDF constitutes the private army of powerful local figures who sometimes hold official positions (often referred to in the Philippines as "warlords"). On previous election days, the CHDF has been observed escorting Barangay "ward" captains seeking to "encourage" voters to vote for a particular candidate. Whether armed or unarmed their presence has in the past been viewed as intimidating.

2. Counting And Canvassing Phases

Given the nature of the election - a national contest between two leading candidates - retail fraud would have to be massive in order to be effective. However, such fraud on that scale would also be easily detected. In light of that potential detection, its costs would appear to be outweighed by the negligible benefit, an additional 300 votes per precinct out of a voting population of 26 million.

The Omnibus Election Code is replete with elaborate safeguards which provide for public scrutiny at all phases of the counting and tabulation process. In theory, these safeguards should prevent an outcome determined in a backroom. In particular, unless large numbers of election return sheets, (i.e., the formal water-marked documents which the COMELEC has produced and distributed for the canvassing of the vote) exist, it would be difficult to manipulate the canvassing phase of the election, without being easily detectable. If large numbers of unaccounted election return sheets do exist, then the opportunity for manipulation of the results is increased.

Fraud sufficiently widespread to alter the outcome of this election is likely to be detectable to foreign observers given the elaborate safeguards in place, and the active participation of opposition party members and citizen groups in the counting and canvassing procedures. Comparisons of election return sheets given the different institutional actors in this process will allow public determination, as well as judicial recourse, should problems arise.

a. Count at the Precinct Level: The BEI will be responsible for deciding how a ballot is counted. Given the procedure in effect, whereby voters write in the name(s) of the candidate(s) of their choice, the BEI can distort the results by refusing to count certain ballots for a particular candidate on the ground that the intent of the voter is unclear. While objections can be made

regarding such distortions, the delay involved would tend to nullify the benefit of the NAMFREL "quick count". (See sec. IV. infra)

b. Canvassing Process: The delegation was made aware of the difference between "retail fraud", which may occur at the precinct level during the voting and counting phases, and "wholesale fraud" which may occur during the canvassing phase. Examples of wholesale fraud would include the substitution of phony election returns or the destruction of valid original election returns. Even if a copy of the actual election return is in the possession of the party poll-watcher and he or she presents the actual return to the Board of Canvassers, the fear is that the Board, dominated by supporters of a particular party, will vote 4-1 to accept the election return which favors that party. If the substitution or destruction of election returns occurs in a widespread fashion, the number of votes affected will be significant, possibly in sufficient numbers to affect the results. As discussed below, the Integrated Bar of the Philippines is mounting a major effort to monitor this critical phase of the election process.

Similar problems in terms of accepting or rejecting Certificates of Canvass may arise before the Batasang, which is controlled by the ruling party. Contests over the validity of the certificates are referred to the Presidential Election Tribunal, also dominated by ruling party appointees.

C. Key Issues to Monitor During Campaign Period

While the delegation devoted considerable attention during its visit to the election procedures and the possibility of fraud, it was cognizant also of other issues affecting the fairness of the election. However, some of the issues may be easily (or have been) resolved and others are merely "potential" problems. Reports of developments since our departure point to the importance of monitoring the campaign phase in the course of evaluating the fairness of the election process.

1. COMELEC Time - Media Access

a. Print Media: The major print media in the Philippines is divided between the pro-government newspapers and the so-called "alternative" newspapers, which support Mrs. Aquino's candidacy. All newspapers are

partisan, both in their coverage of the news and in their editorials, and there were few complaints regarding the print media because of this accepted practice. It should be noted, however, that the pro-government newspapers have a much wider circulation than the alternative newspapers.

Newspapers do not appear to suffer from censorship and the alternative newspapers are very critical of President Marcos. It appears that journalists are under some pressure to support the editorial position of their papers.

b. Electronic Media: There are five television stations in metro Manila - one owned by the government, three pro-government in orientation, and one somewhat independent. The government-owned and pro-government television media have been covering KBL political rallies, devoting considerable time on the evening news programs to political speeches by the President, Vice-Presidential candidate Tolentino, and the First Lady. Opposition rallies are virtually ignored.

The UNIDO party complained to two of the television stations regarding the partisan coverage. When no response was received, a formal complaint was filed with COMELEC on January 8, 1986 alleging violations of the Election Code provisions regarding the "Regulation of election propaganda through mass media" (Code, sec. 86[a]). UNIDO also complained that television stations declined to sell television air time to the party, justifying the decision on the grounds that it also was refusing to sell air time to the ruling KBL party.

COMELEC's resolution of the UNIDO complaint may indicate the degree to which UNIDO will be able to use television to communicate its message to potential voters in the limited period remaining before election day, and COMELEC's willingness to curb the partisanship of the television media, particularly the government-owned station. While the delegation recognizes the sensitivity of COMELEC interfering with editorial judgments, the Election Code provides COMELEC with authority to ensure that news programs not "manifestly favor...any candidate...by unduly repeating or referring to or including said candidate..." (Code, sec. 86[a]).

On January 12, COMELEC established a schedule for "COMELEC time" procured, pursuant to the Code, for the purposes of educating voters about their rights and permitting the major parties to communicate with prospective voters (Code, sec. 92). For the week of January 13, COMELEC procured a total of three hours from the five television stations. Under the initial schedule, each of the parties has been allotted one and a half hours -- in half hour segments -- between 4:00 p.m. and 6:30 p.m.

If COMELEC procures adequate time during the remainder of the campaign and distributes it fairly, then the UNIDO will have an opportunity to overcome some of the advantages gained by the pro-government orientation of the television media. In the view of most knowledgeable Filipinos radio and newspapers -- particularly those outside of the Metro Manila area--provide the bulk of the average voter's information about the campaign and the candidates. However, due to lack of time, the delegation did not investigate the situation with respect to radio stations during its visit. As of our departure date, COMELEC had received no complaints regarding radio coverage, radio access or the procurement of "COMELEC time" on radio stations.

2. Intimidation

Reports of election-related violence or attempts at intimidating voters were not prevalent during our visit. However, we have heard accounts that indicate an increase of this activity and that it may be election-related. The Institutes delegation is obviously not in a position to assess these reports; however, the international delegtion will attempt to corroborate them.

Violence and the threat of violence against Filipino citizens would be a factor in evaluating the election. This type of activity could intimidate voters and have an impact on the result. We must recognize, however, that it will be exceedingly difficult, if not impossible, for an international group to measure that impact. Voters who have been intimidated do not normally wish to talk about it. Still, if an obvious and discernable pattern emerges as a result of reliable testimony, this will clearly affect any objective evaluation of the election.

In meetings with KBL and opposition leaders, the delegation received only one complaint of interference with their political rallies. This involved the refusal by local officials to permit Mrs. Aquino to campaign in President Marcos' home town.

3. Government Manipulation of Process

COMELEC has promulgated several regulations designed to prevent the President and ruling party from taking advantage of their incumbent positions. These regulations include a ban on the hiring and transfer of civil servants (Res. 1735) and a ban on the initiation of public works projects (Res. 1744). Concern has been expressed that at the local level Barangay captains may receive funds to "buy votes". [The pastoral letter written by Cardinal Sin and read in all the churches on January 19, 1986 stated, "already money has flowed freely into the hands of teachers, Barangay officials, and the common people to induce them to support a particular candidate unworthy of free persons."] Interestingly, the church has reinforced its instruction from last year to accept the money offered, but "to vote your conscience".

4. Disaccreditation of NAMFREL

NAMFREL has been accredited on a nationwide basis as COMELEC's citizen arm. Concern was growing upon our departure that other groups will compete with NAMFREL for the rights of watcher at the local level. Two groups, MOVER and VALOR, were reportedly seeking accreditation from COMELEC. Little was known about these organizations, but several sources identified them as having limited resources and ties to the KBL.

There also was fear that NAMFREL's accreditation would be revoked either nationally or in some locales on the grounds that it is acting in a partisan manner (Res. 2729, sec. v.1). As the delegation was leaving the Philippines, KBL leaders requested the resignation of NAMFREL co-chair Jose Concepcion.

Regional and provincial election officials have authority to revoke NAMFREL's accreditation if these authorities decide a NAMFREL representative is not acting impartially (id.). We were assured by COMELEC Chairman Savellano, however, that such decisions should be taken in time for NAMFREL to find replacements. NAMFREL has been vigilant in ensuring that the organization's workers remain non-partisan in their personal and professional conduct. (See discussion, sec. IV., B.3. infra.)

5. Disqualification of Candidates

COMELEC has the authority to disqualify a candidate for violating various provisions of the election code (Code, sec. 68). There was a remote concern expressed that the KBL would attempt to disqualify Mrs. Aquino on the ground that she had not been "a resident of the Philippines for at least ten years immediately preceding" this election (Code, sec. 63). Mrs. Aquino's campaign manager informed the delegation that even during her exile in the United States, Mrs. Aquino continued paying her resident taxes in the Philippines. In line with the Supreme Court's decision of December 19, 1985, any move to disqualify Mrs. Aquino -- regardless of the legal technicality -- would be contrary to the majority of the citizenry's evident desire to exercise their franchise for one of the two leading candidates.

6. Discriminatory Enforcement of Election Laws

The Election Code contains provisions governing the conduct of the election campaign and the financing of the campaign. Some of these provisions appear unduly restrictive. For example, the Code prohibits the sale or distribution of T-shirts advertising a candidate (Code, sec. 85; Res. 1746). During our visit, it became apparent that both major parties are ignoring this provision, which has been criticized in the pro-government media.

The rules regarding the limits on campaign expenditures and the filing of accounting reports following every campaign rally appear equally unenforceable (Code, sec. 100). Candidates for president can expend up to one peso and fifty centavos per registered voter, or a total of approximately 40 million pesos (i.e., 2.2 million dollars). This includes the amount expended organizing rallies, transporting candidates and purchasing media time. In a fact sheet responding to the Center's report, however, COMELEC stated that the "restrictions [regarding campaign financing] are not dead." To date, there is no evidence of discriminatory enforcement of the laws. (COMELEC's Rebuttal to CFD Report, Annex IV.)

7. Handling of Complaints

During the delegation's initial meeting with COMELEC, members of the commission noted that they had received no complaints regarding the conduct of the election campaign from either party. As noted above, during the period of the delegation's visit UNIDO filed a complaint regarding media access. UNIDO indicated that it also might be filing other complaints regarding alleged intimidation of voters and vote buying. COMELEC's handling of complaints will be watched closely before and after the election.

8. Postponement of the Election

Under the code, COMELEC has authority to postpone or to suspend the election on account of "force majeure, violence, terrorism, fraud, or other analogous causes" (Code, secs. 5 & 6). Similarly, President Marcos could affect a postponement of the election by reinstating martial law, a possibility that the President refused to rule out a press conference on January 10, 1986. Given the enthusiasm generated by the announcement of a snap election and the ensuing election campaign, any attempt by COMELEC or President Marcos to call off the snap election would be met with a strong negative reaction.

IV. MONITORING CAPABILITIES

A. Commission on Elections - "COMELEC"

COMELEC is charged with the responsibility of administering the election apparatus. It exercises a wide range of authority including: control over the media, regulation of campaign activities and finance, registration of voters, ballot preparation, election day activities and tabulation of the vote.

COMELEC is chartered to have nine commissioners who are appointed by the President. There are currently two vacancies. The Center for Democracy report listed the appointment of two commissioners as a key safeguard toward a free and fair election. During our delegation's visit, we made it clear that the filling of these vacancies with recognizably neutral figures would enhance the credibility of the process. We continue to believe that, even at this late date, these two vacancies should be filled by persons whose integrity is beyond question.

As all of the commissioners have been appointed by President Marcos, concerns about COMELEC's independence have been raised, particularly in view of its handling of several complaints involving the 1984 election. Our delegation concluded that just as the leadership of NAMFREL expects to carry out its mission in a non-partisan manner, COMELEC commissioners will seek to do the same. COMELEC's decisions have, to date, increased the possibility of a free and fair election.

The time remaining before the election is short, and COMELEC faces a considerable challenge in ensuring that all aspects of the process are in place and ready to perform fairly and effectively by February 7. To date, there have been very few complaints during the process of printing and transporting ballots and election return sheets. NAMFREL has been permitted to observe each step of the process.

There continues to be a degree of controversy over the tabulation of the vote. In December, COMELEC announced plans to conduct "Operation Super Quick Count" fashioned after NAMFREL's successful "Operation Quick Count," which in the 1984 election produced results from the provinces quicker than did COMELEC's official count. The short period before the election and the high costs of the plan led COMELEC to abandon "Operation Super Quick Count."

COMELEC has maintained its responsibility for the official count and is exploring ways to expedite the reporting of voting results. The delegation was encouraged by COMELEC's desire to produce the election results quickly and accurately. It is hoped that the combination of COMELEC's official count and NAMFREL's "Operation Quick Count" can work simultaneously to produce the voting results.

COMELEC's efforts will not end on election day. Its handling of election day complaints will contribute to the overall fairness of the election. The delegation recognizes the conflict between

COMELEC's need to consider carefully all complaints and its need to provide a quick official tabulation of the results. While the Batasang Pambansa is responsible for proclaiming the winner, COMELEC's assessment of the election and announcement of the results is the "official" view.

B. NAMFREL

1. Background

The National Citizens' Movement for Free Elections (NAMFREL), the nationally accredited citizens' arm, received a great deal of praise for its work in monitoring the 1984 congressional election. Formed by Filipino businesspersons prior to the 1984 elections, it has close ties to the Philippines Catholic church and many civic organizations and has been expanding its operation. The national chairman of NAMFREL is Jose Concepcion, Jr., a prominent Manila businessman, and its co-chair is Bishop Antonio Y. Fortich, who is based in the province of Negros Occidental.

NAMFREL's stated purpose is to "harness citizen power in working toward free, orderly, and honest elections by organizing and training volunteers nationwide to monitor the electoral process." To this end, NAMFREL is believed to have mobilized over 100,000 volunteers for the 1984 election and effectively covered 40-60% of the approximately 90,000 precincts.

NAMFREL also performed a vote tabulation program in the 1984 election, "Operation Quick Count," which transmitted the election results to Manila in many cases faster than did COMELEC's official tabulation. This count was used subsequently to detect anomalies in the official count after the Electoral Return left the precinct level.

2. Program

As the nationally accredited citizens' arm, NAMFREL has been given authority to place its volunteers in the polling places on election day and in the canvass centers during the counting of the ballots. The organization intends to mobilize over 500,000 volunteers throughout the Philippines to work on election day. Whether or not this goal is realized, NAMFREL's presence will be pervasive unless official steps are taken to interfere with the organization's stated objectives. It is our estimate that NAMFREL will cover between 80 to 90 percent of the precincts and all of the provincial counting centers. NAMFREL has conducted training programs for its poll-watchers throughout the country.

NAMFREL has received institutional support from COMELEC to perform its poll-watching function, despite some obvious tensions. It is still possible that local factors will interfere with the successful completion of NAMFREL's mission. This will be watched carefully by all those monitoring the election. A significant measure in support of NAMFREL was the authority conferred by COMELEC

to name volunteers without pre-registering them with the national COMELEC office. As a rapidly growing organization, NAMFREL would have found pre-registration onerous and possibly intimidating.

With a highly disciplined election day reporting system, NAMFREL intends to identify problem areas quickly, draw COMELEC's attention to these areas, and to direct international observers and the media to those places where their presence may serve to deter electoral fraud. After the polls close, NAMFREL volunteers will observe the counting of ballots and the transfer of electoral returns to the municipalities and provincial levels. There appear to be no institutional barriers to their ability to perform this task.

As the votes are tabulated, NAMFREL will, as it did in 1984, implement its "Operation Quick Count." The results will be transmitted from the precincts to 1700 municipalities and then directly to the Manila NAMFREL office. The NAMFREL count also should be indicative of the election's overall results. NAMFREL expects to have 35-40 percent of the total vote tabulated by midnight on election day. (NAMFREL Quick Count, Annex IX.)

"Operation Quick Count" is an integral component of a comprehensive monitoring of the voting and vote counting procedures. It is without question an important check on those who would seek to manipulate the process. "Operation Quick Count" has come under a great deal of scrutiny of late, especially since the COMELEC dropped the highly computerized "Super Quick Count." COMELEC maintains that it has responsibility for the official tabulation, and some have suggested that COMELEC and NAMFREL join forces on the count. NAMFREL has vigorously defended its need for an "independent" vote tabulation. This issue will continue to be closely monitored, as the correlation between NAMFREL's quick count and COMELEC's official count could be a key determinant in evaluating the anomalies in the tabulation of the vote.

NAMFREL will withhold its overall evaluation of the election for at least one week. On February 14, NAMFREL will assemble its 91 provincial chairpersons in Manila to carefully address the various aspects of the presidential election and to determine whether the margin of victory has been affected by fraud, intimidation or other irregularities. (NAMFREL Forms, Annex X.)

One criticism of NAMFREL's 1984 performance was that it simply produced a list of election violations; it later attempted to classify the various races in four categories. NAMFREL did turn over its raw data to the University of the Philippines, and that institution has recently prepared a major study on the fairness of the 1984 electoral process. This study, to be released two weeks before the election, will reveal the irregularities which occurred in an election that was generally perceived to be fair by recent Filipino standards.

3. Charges of Partisanship

NAMFREL is accused on a steady basis of being partisan in its orientation and occasionally in its activities. The charges come

from both KBL and UNIDO partisans, though the largest number of them come from the KBL. Under the compulsory voting law, all registered citizens of the Philippines are required to cast a vote for one side or the other in the February 7 election. The highly politicized atmosphere does not, however, prevent individuals from carrying out their official and non-official election responsibilities in a non-partisan manner.

We believe that NAMFREL is capable of discharging its duties in a non-partisan fashion so long as each NAMFREL volunteer scrupulously follows the guidelines established for his or her activity. Similarly, all COMELEC officials must exercise objectivity in their judgements regarding NAMFREL, particularly in relation to NAMFREL volunteers' access to precincts on election day.

4. Summary

NAMFREL is clearly attempting to fulfill its responsibility as the citizens' arm of the COMELEC. It has a high degree of public support as well as the active participation of hundreds of thousands of volunteers. It has weaknesses, as does any predominately volunteer organization, but NAMFREL occupies a pivotal place in deterring fraud and in bringing about a free and fair election in the Philippines. Any effort to weaken the organization from the outside or to hinder its coverage by dilatory tactics would in our view constitute a serious breach of the integrity of the electoral process.

C. Integrated Bar of the Philippines

The Integrated Bar of the Philippines (IBP) has set out to recruit 2,000 Filipino lawyers to serve as observers of the canvassing process and to provide such legal advice as might be warranted. It is seeking COMELEC accreditation as a citizen's arm for the purpose of gaining access to the canvassing centers.

The basis for the IBP's plan is that the canvassing stage is where the electoral process is most likely to be subverted. The IBP believes that "the sharpened knowledge and expertise of trained lawyers are required ... to detect and cause the invalidation of spurious returns when presented for canvass, lay the basis for an early proclamation of the true winner, and document the frauds where they occur so that appropriate cases may be brought to court by IBP legal aid committees." The IBP, if accredited, hopes to have several attorneys present at each of the 91 provincial centers and at some of the city canvassing centers.

Although the IBP is a new institutional participant in Filipino elections. it has the stature and expertise to play a critical role in maintaining the integrity of the canvassing process. Its ability to perform that function hinges on its capacity to organize the IBP membership for the task and its accreditation by COMELEC.

D. Other Civic Organizations

Several civic organizations also are seeking COMELEC accreditation to act as citizens'arms. At the time of our departure, only the Jaycees were accreditted for the limited purpose of helping COMELEC with its consent. It was unclear whether other groups would receive accreditation and what role they would play if accredited.

E. KBL

Watchers for President Marcos' KBL party will be present at all precincts and in all phases of the canvassing process. The extent to which the KBL will name local barangay officials as its official poll-watchers remains an issue.

F. UNIDO

As the dominant opposition party (DOP), UNIDO is entitled to name a poll watcher to each of the precincts. UNIDO should have no problem naming poll-watchers in most of the precincts. Even in those areas of significant Marcos strength, UNIDO expects to be represented.

G. The Armed Forces of the Philippines (AFP)

The AFP is not assigned a direct role in the monitoring of the electoral process. However, given the continuing insurgency in the Philippines, the fact that the NPA may seek to disrupt the election and allegations of AFP human rights abuses, its conduct during the election period is crucial to a fair election.

As noted earlier, the Election Code proscribes AFP presence within fifty meters of polling sites unless specifically authorized by COMELEC. Further, the AFP is responsible to COMELEC during the election period, and COMELEC has requested that it be provided "standby authority to deputize ... the [AFP] ... whenever necessary to ensure the free, orderly and honest holding of the election (Res. 1742). AFP Chief of Staff Fabian Ver, meanwhile, has issued orders directing the AFP to make the coming election "peaceful and orderly."

During the delegation's visit, the Reform AFP Movement (RAM), which consists of a small group of AFP officers committed to reforming the army, announced its "Kamalyan 86" program. The program commits those affiliated with RAM to, among other things, "impart to the AFP personnel the significance of an honest, clean, fair and free election" and to "call for public vigilance against fraud and coercion at all stages of the electoral process." RAM is coordinating its program with NAMFREL and should help monitor the fairness of the balloting process for AFP personnel. At the time of our departure, the AFP hierarchy had not reacted to RAM's official program for the election. (RAM's Kamalyan 86 Program, Annex XI.)

H. The Catholic Church

The church hierarchy, including in particular Cardinal Sin, has issued several pastoral letters concerning the upcoming election.

These letters have stressed the duty of the devout to exercise vigilance in ensuring a free and fair election and have criticized attempts at pre-election intimidation and vote-buying. The pastoral letter written by Cardinal Sin and read in all the churches on January 19, 1986 stated: "[a]lready money has flowed freely into the hands of teachers, Barangay officials, and the common people to induce them to support a particular candidate unworthy of free persons."

While the church as an institution has no direct monitoring capacity, its assessment of the fairness of the election certainly will be influential. Further, by speaking out publicly on the importance of the individual's role in the electoral process. the church is encouraging both political activity and participation in recognized monitoring groups such as NAMFREL.

I. New Peoples' Army

Although the New Peoples' Army (NPA) is not a participant in the election, some discussion about its potential effects on the electoral process is necessary. The NPA is a communist revolutionary movement in the Philippines that numbers 10,000 - 20,000 armed combatants. NAMFREL concluded that the NPA was responsible for a great deal of interference with the 1984 election.

The NPA has in the past violently opposed the electoral process through assassinations of officials, stealing of ballot boxes and other incidents. There is little in the way of indication as to how the NPA will respond to the current elections. Their activities require close monitoring during this election.

V. INTERNATIONAL OBSERVER MISSION

A. Feasibility

A primary purpose of our visit was to assess the feasibility of organizing an observer team for the Philippines during the period of the February 7, 1986 snap election. A level of cooperation with those institutions responsible for organizing, participating in and monitoring an electoral process is necessary for an international observer mission to contribute to the democratic process. During our visit, the delegation was made aware of the sensitivity of organizing an international observer effort in a country such as the Philippines. However, by the end of the week, sufficient assurances of cooperation from each of the main institutional actors assuaged earlier concerns and working relationships were established.

In addition to the concerns raised about "foreign intervention" discussed above, we are obligated to note that certain well-respected Filipinos who are personally and institutionally committed to free and fair elections expressed reservations about an international observer effort. In their view, the election process represents an opportunity for Filipinos to take hold of and shape their own destiny. In this respect, they believed it important that Filipinos be responsible for judging the fairness of the election and not be overly influenced by perceptions expressed by international observers -- positive or negative -- of the election.

The delegation also sought an understanding of the technical, logistical and financial requirements which would be confronted if an observer mission were to be pursued. Below are detailed discussions of these and other issues which were taken into account in determining the feasibility of an international mission. The size of the mission and places they would visit were also important considerations given the diversity, number of islands, and population densities along the archipelago.

B. Cooperation on the Ground

1. COMELEC Cooperation

The first meeting with the Commission on Elections saw the participation of the Chairman and five of the six appointed Commissioners. The meeting was held in the public hearing room at COMELEC; soon after it began, journalists and television crews began to fill the room. The COMELEC took this opportunity to react to perceived inaccuracies contained in the report prepared by the fact-finding mission which the Center for Democracy submitted to Senator Richard Lugar and the Senate Foreign Relations Committee before the Christmas holidays.

In subsequent meetings with individual Commissioners, in particular Chairman Savellano and Executive Director Jaime Layosa, assurances of cooperation were received by the delegation. Access to COMELEC files on problem areas and Resolutions on the election were provided. In a closing session with the heads of the delegation,

Chairman Savellano stressed that proper registration of international observers would be provided by COMELEC. He secured speedy consideration of this issue through a COMELEC Resolution, passed the afternoon prior to the delegation's departure from Manila (Res. 1747). (COMELEC Resolution Regarding Role of Foreign Observers During Special Election, Annex XII.)

The title of this Resolution governing the participation of international observers in the February 7 election is unfortunate. That title, "Rules and Regulations against Foreign Intervention," appears to convey the negative attitude of some within the COMELEC structure regarding an international observer presence during the vote and the implied intrusion they perceive such a mission poses.

Under the Resolution, international observers -- as well as the foreign media -- will need to be registered with COMELEC and otherwise adhere to Philippine laws, including being excluded from polling sites. The ban on foreigners' access to polling sites is a provision which exists in many countries. The Resolution explicitly provides observers access to the canvassing process where, historically, the majority of proven instances of electoral fraud have occurred. A careful reading of the Resolution, including the sections on penalties and the banning of access to the polling places, shows that it is but an amplification of the Election Code, particularly sections 81 and 192.

The delegation chose to conclude that the quick issuance of Res. 1747, was an act of good faith by COMELEC concerning the participation of international observers. We accepted the Resolution as a formal statement of COMELEC's willingness to cooperate with our mission to the fullest extent of Philippine law and the limits of scarce and hard-pressed human and material resources.

COMELEC also provided copies of resolutions which had been promulgated and serve as the explanatory reference documents for the public at large and for COMELEC functionaries in the provinces. (See annexes VI, VII, and XII.) The provision of these documents and other courtesies extended the delegation during our stay in Manila established a solid working relationship with the principal institutional actor responsible for the conduct of the elections. It is the conclusion of the delegation that the administrative apparatus of COMELEC is sufficiently attuned to the needs of international observers and that an observer mission will be able to carry out its tasks.

2. NAMFREL Cooperation

On January 6, a NAMFREL's national leadership gave a formal briefing to the delegation. The agenda included detailed discussions of the NAMFREL quick count, the 1984 elections experience from the NAMFREL perspective, the status of preparation at the national and local levels, an overview of relations with COMELEC, and some proposals for international observers. The NAMFREL leadership also underscored their institutional interest in an international observer mission by agreeing to assist in the delegation's trips to the provinces scheduled for Wednesday and Thursday.

NAMFREL views the participation of a large and well-equipped international observer mission as an important contribution to ensuring the integrity of the electoral process. In their view, the presence of international observers would be important to the esprit of a volunteer force of some 500,000 people. There also was continued reference to the deterence effect on those tempted to subvert the democratic process through electoral fraud, again, simply by the presence of non-Filipinos in key locations.

Given the obvious complement between NAMFREL's mandate and an international observer mission, this organization will be key to the success of our mission. The cooperative and professional attitudes displayed at all levels in the organization, and the willingness to make available local resources was most impressive. It was the delegation's conclusion that NAMFREL has the resources and professionalism to assist an international observer mission in assessing the fairness of the election.

3. KBL and UNIDO Cooperation

Meetings with the leadership and principal lieutenants of the governing party and the opposition, including President Ferdinand Marcos and Mrs. Corazon Aquino, convinced the delegation that both parties welcome an international observer team. In a meeting with press in attendance, President Marcos repeated his invitations to international observers which were first issued on U. S. television in November 1985. He pledged the cooperation of his government in this effort (Marcos Letter to the Batasang Pambansa, Annex VIII.).

Mrs. Aquino also welcomed the presence of international observers, noting the important role they could play in shaping world opinion about the freedom from coherrion, correctness of procedures, and absence of chicanery which she hoped would mark the elections. Mrs. Aquino also pledged her organization's cooperation.

Both political parties see this election as an historic turning point in Philippine politics. Both conclude that the ability of any government to maintain order in the country would be seriously impaired by the wide-spread perception among the Philippine people that the election was fraudulent. The stakes are high, and both parties view the role of an international observer mission, if it is unbiased, and if it is in the field for a period sufficient to observe the voting and counting, as one that will strengthen the democratic process in the Philippines.

4. Overall Response to Assessment Mission

The response to the delegation's assessment mission was generally positive and the Institutes were urged to organize an observer effort. The delegation respects the sentiments expressed by the individuals referred to above with respect to the responsibility of the Filipino people in assessing their own election. In view of the otherwise strong favorable response to the presence of international observers, the delegation has chosen to recommend proceeding with the effort while at all times emphasizing our limited role.

C. Coverage Issues

The Institute's original concept was to deploy an international observer group of twenty international observers to be in the field for a limited period prior to and during the election. However, discussions with COMELEC, the political parties and other observers of Philippine politics suggest that a larger group deployed to a number of regions for a longer period would be required to achieve our objectives.

As discussed earlier, the vulnerabilities in the electoral system appear to be greatest in the counting process. Because the election is between essentially two slates of candidates for President and Vice-President, the count will be conducted quickly, but some provinces, especially those with a history of irregularities, will lag behind the rest in their reporting. Consequently, the observation of the counting process Friday evening through Saturday noon will be the most critical period.

Forty observers in eight teams of five will allow substantial coverage of Metro Manila, surrounding provinces, and seven other regions. Security is a consideration in choosing the areas for coverage. Consequently, recommendations from foreign embassies and government officials will be followed. In addition, the areas chosen will be those where abuse of the electoral system has in the past been particularly noteworthy and on a large scale.

ANNEX TABLE

I. Delegation Departure Statement

II. Delegation Schedule

III. January 11, 1986 Press Conference Transcript

IV. COMELEC Rebuttal to Center for Democracy Report

V. NAMFREL Evaluation of 1984 Election

VI. COMELEC Resolutions Promulgating February 7, 1986 Special Election for the Presidency

VII. Polling Place Sketch

VIII. President Marcos' Letter to the Batasang Pambansa Requesting Special Election for the Presidency

IX. NAMFREL Quick Count

X. NAMFREL Evaluation Forms

XI. RAM's Kamalyan 86 Program

XII. COMELEC Resolution Regarding Role of Foreign Observers During Special Election

National Democratic Institute
for International Affairs

National Republican Institute
for International Affairs

ANNEX I

DELEGATION DEPARTURE STATEMENT

January 11, 1986

DEPARTURE STATEMENT

A delegation comprised of representatives of the Republican and Democratic Institutes for International Affairs concluded its work in the Philippines today. The team arrived last week to study the feasibility of an international observer delegation for the February 7 election. Upon departure, the co-chairmen of the delegation, Keith Schuette, Director of the Republican Institute, and Brian Atwood, Director of the Democratic Institute, issued the following joint statement:

- -

"Our delegation has made great progress in collecting the information we require to determine the feasibility of an international observer mission for the February 7 election. We have been deeply impressed by the reception we have been given in the Philippines by representatives of the government, COMELEC, the major political parties, the Armed Forces and the various citizens' organizations which will play such a vitally important role in observing the coming election.

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We are appreciative of the warm response our delegation has evoked and the cooperation we have received from the people of the Philippines.

"We believe we have been successful in convincing those with whom we have met that our mission is one of friendship and that it reflects our shared commitment to the democratic process. Our work in the Philippines is fully non-partisan, we share the hope of the Filipino people that the February 7 election -- as is the case in all truly democratic elections -- will reflect the will of the people of this great nation.

"During our visit we have been able to discuss a prospective observer mission with the leaders of the two major parties, President Marcos and Mrs. Aquino, the commissioners of the Commission on Elections, representatives of NAMFREL, the accredited citizens' arm -- the Integrated Bar of the Philippines, which is seeking COMELEC accreditation, and many other civic organizations and citizens of the Philippines. We have met with local officials, COMELEC representatives, election registrars, provincial military commanders, NAMFREL representatives, church officials and many ordinary citizens in three visits to provincial areas outside Metro Manila. Our group has visited Nueva Vizcaya, Isabela, Negros and Batangas.

"Upon our return to Washington we will prepare a comprehensive report on our visit. Our plans are to release that report on January 23, on which date we have been asked to testify before the Senate Foreign Relations Committee. This report will contain our findings and our recommendations concerning an international observer mission.

"We do not wish to offer any final conclusions today about prospects for an international observer mission or about the efforts being made to assure a free and fair election. We can say, however, that we have been encouraged by assurances from all parties, particularly the COMELEC, that an international observer group would be accepted and would receive the necessary cooperation. We are not in any way surprised by this since most democracies, including the United States, are eager to have outside groups observe their elections so long as there is no partisan interference with the process itself. The electoral process is sacred in a democracy and the community of democracies has always demonstrated a desire to work together to preserve that process as a free expression of the national will.

"Finally, while we will reserve any detailed comments on the safeguards that have been adopted by the Philippine government against possible election fraud, we do feel that systems are in place that will adequately detect irregularities.

We have been impressed by the commitment made by various official and citizens' organizations to assure the integrity of the electoral process. The people with whom we have spoken have, to a person, demonstrated a clear and unequivocal understanding of the importance of conducting a 'clean' election that will represent a true expression of the Filipino people."

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ANNEX II

DELEGATION SCHEDULE

Schedule for Democratic and Republican Institutes' Observer Delegation Assessment Team - Jan. 5-11, 1986

January 5 (Sunday)

21:00 Delegation arrives via Pan Am #801
Emboffs Charles Martin and Frank Hearne meet and facilitate at airport and accompany to Manila Hotel

January 6 (Monday)

08:30 Pick up at Manila Hotel

09:00 Arrive American Embassy for briefing with Ambassador Bosworth and country team.

DCM Phil Kaplan
Norb Garret, Pol. Off.
Charlie Martin, Pol. Off.
Dick Holmes, Pol. Off.
Scott Hallford, Pol. Off.
Alan Croghan, PAO

10:30 Meeting with COMELEC at Headquarters

Chairman Victorino Savellano
Commissioners:
Jaime Opinion
Mario Ortiz
Ramon Felipe, Jr.
Froilan Bacungan
Mangontawar Guro

13:00 Lunch with Philippine civic organization leaders. Hosted by Delegation at Seafront.

"Bing" Abano, President, Philippine Jaycees
Roger C. Nicandro, President, Rotary Club of Makati-North
Ramon Tuason, President, Rotary Club Foundation of the Philippines
Mayor of Manila Ramon Bagatsing, Director, International Lions Club
Edgardo Angora, President , University of the Philippines
David Sycip, PCI Management, Senior Advisor

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16:00	Meeting with NAMFREL at Headquarters
	Jose Concepcion, Jr., Chairman, Vicente "Ting" Jayme, Vice-Chairman, Christian Monsod, Secretary-General, Rolando Dizon
Others	
19:30	Dinner hosted by Ambassador at Residence for COMELEC and NAMFREL senior leadership; only NAMFREL senior leadership was able to attend.
	Jose Concepcion Ting Jayme Chris Monsod

January 7 (Tuesday)

08:30	Breakfast with Aquino campaign operatives at UNIDO Headquarters
	Lupida Aquino Kashawahara, (Ninoy Aquino's sister) Joe Ilina, Manager Poll Watcher Training Tom Hinson, Finance Manager
12:30	Luncheon hosted by Ambassador at Residence
	Blas Ople, Minister of Labor and major KBL Party strategist
14:30	Team Strategy Session and preliminary assessment, planning for provincial trips, next steps in Manila.
15:30	Meeting with Integrated Bar of Philippines at IBP Building
	President and Executive Committee

19:30	Dinner with Opposition Political Leaders Senator Neptali Gonzalez, Executive Vice-President, UNIDO Senator Rene Espina, UNIDO Senator Ramon Mitra, MP, Senior Official PDP-Laban Emigdio Tanjuatco, Secretariat, Aquino Campaign Senator Jamie Ferrer, PDP-Laban, former Chairman of COMELEC
	<u>January 8 (Wednesday)</u>
early a.m.	Departures begin for provincial travel Schuette and Atwood to Nueva Viscaya Wiley and Penniman to Batangas
09:00	Meeting with Chairman Savellano and Executive Director Jaime Layosa at COMELEC Headquarters. Delegation Participants Henderson and Garber. Subject: Additional Concerns. Henderson and Garber to Negros See attached for list of provincial meetings.
	<u>January 9 (Thursday)</u>
	Mid-day returns from provincial travel.
18:30	Meeting with Opposition Presidential Candidate, Mrs. Cory Aquino, and Campaign Leadership at her home.

January 10 (Friday)

am	Wiley and Penniman at NAMFREL
12:00	Atwood, Schuette, and Henderson at Seafront with Charlie Martin.
14:00	Garber, Penniman, and Wiley at Manila Hotel with former Liberal Party Presidential Candidate, _____ Salonga
14:00	Schuette, Atwood, and Henderson with Chairman Savellano and Executive Director Layosa at COMELEC Headquarters.
16:00	Delegation meeting with Roger Nicandro of the Rotary Club and Philippine Navy Captain Rex Robles of the RAM (Reform of the Armed Forces Movement).
18:30	Meeting with President of the Republic, Ferdinand Marcos at Malacanang Palace.
20:30	Dinner with KBL leadership and NAMFREL Chairman Jose Concepcion in Champagne Room of Manila Hotel hosted by Minister of Labor Blas Ople.
	U.S. Embassy Amb. Steve Bosworth Scott Hallford, Pol. Off.
	NAMFREL Jose Concepcion
	KBL Blas Ople, Minister of Labor

January 11 (Saturday)

08:30	Atwood and Schuette with Amb. Bosworth
09:00	Penniman and Garber at COMELEC with Commissioner Bacunang re: COMELEC foreign observer resolution.
11:30	Press Conference at Manila International Airport. See Appendix ____ for Departure Statement.
12:40	Delegation departure for U.S.

ANNEX III

JANUARY 11, 1986 PRESS CONFERENCE TRANSCRIPT

UNCLASSIFIED

Department of State

INCOMING
TELEGRAM

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ACTION EAP-00

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USIA

USIA FOR EA-GONG; STATE FOR EA-MAISTO

E.O. 12356: N/A
SUBJECT: TRANSCRIPT OF BIPARTISAN OBSERVER DELEGATION'S DEPARTURE PRESS CONFERENCE, JANUARY 11, 1986

DEPARTURE STATEMENT READ BY ATWOOD:

BEGIN TEXT: OUR DELEGATION HAS MADE GREAT PROGRESS IN COLLECTING THE INFORMATION WE REQUIRE TO DETERMINE THE FEASIBILITY OF AN INTERNATIONAL OBSERVER MISSION FOR THE FEBRUARY 7 ELECTION. WE HAVE BEEN DEEPLY IMPRESSED BY THE RECEPTION WE HAVE BEEN GIVEN IN THE PHILIPPINES BY REPRESENTATIVES OF THE GOVERNMENT, COMELEC, THE MAJOR POLITICAL PARTIES, THE ARMED FORCES AND THE VARIOUS CITIZENS' ORGANIZATIONS WHICH WILL PLAY SUCH A VITALLY IMPORTANT ROLE IN OBSERVING THE COMING ELECTION. WE ARE APPRECIATIVE OF THE WARM RESPONSE OUR DELEGATION HAS EVOKED AND THE COOPERATION WE HAVE RECEIVED FROM THE PEOPLE OF THE PHILIPPINES.

WE BELIEVE WE HAVE BEEN SUCCESSFUL IN CONVINCING THOSE WITH WHOM WE HAVE MET THAT OUR MISSION IS ONE OF FRIENDSHIP AND THAT IT REFLECTS OUR SHARED COMMITMENT TO THE DEMOCRATIC PROCESS. OUR WORK IN THE PHILIPPINES IS FULLY NON-PARTISAN, WE SHARE THE HOPE OF THE FILIPINO PEOPLE THAT THE FEBRUARY 7 ELECTION -- AS IS THE CASE IN ALL TRULY DEMOCRATIC ELECTIONS -- WILL REFLECT THE WILL OF THE PEOPLE OF THIS GREAT NATION.

DURING OUR VISIT WE HAVE BEEN ABLE TO DISCUSS A PROSPECTIVE OBSERVER MISSION WITH THE LEADERS OF THE TWO MAJOR PARTIES, PRESIDENT MARCOS AND MRS. AQUINO, THE COMMISSIONERS OF THE COMMISSION ON ELECTIONS, REPRESENTATIVES OF NAMFREL, THE ACCREDITED CITIZENS' ARM -- THE INTEGRATED BAR OF THE PHILIPPINES, WHICH IS SEEKING COMELEC ACCREDITATION, AND MANY OTHER CIVIC ORGANIZATIONS AND CITIZENS OF THE PHILIPPINES, I MIGHT ADD, INCLUDING THE JAYCEES WHO HAVE RECENTLY BEEN ACCREDITTED BY COMELEC. WE HAVE MET WITH LOCAL OFFICIALS, COMELEC REPRESENTATIVES, ELECTION REGISTRARS, PROVINCIAL MILITARY COMMANDERS, NAMFREL REPRESENTATIVES, CHURCH OFFICIALS AND MANY ORDINARY CITIZENS IN THREE VISITS TO PROVINCIAL AREAS OUTSIDE METRO MANILA. OUR GROUP HAS VISITED NUEVA VIZCAYA, ISABELA, NEGROS AND BATANGAS.

UPON OUR RETURN TO WASHINGTON WE WILL PREPARE A COMPREHENSIVE REPORT ON OUR VISIT. OUR PLANS ARE TO RELEASE THAT REPORT ON JANUARY 23, ON WHICH DATE WE HAVE BEEN ASKED TO TESTIFY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE. THIS REPORT WILL CONTAIN OUR FINDINGS AND OUR RECOMMENDATIONS CONCERNING AN INTERNATIONAL OBSERVER MISSION.

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WE DO NOT WISH TO OFFER ANY FINAL CONCLUSIONS TODAY ABOUT PROSPECTS FOR AN INTERNATIONAL OBSERVER MISSION OR ABOUT THE EFFORTS BEING MADE TO ASSURE A FREE AND FAIR ELECTION. WE CAN SAY, HOWEVER, THAT WE HAVE BEEN ENCOURAGED BY ASSURANCES FROM ALL PARTIES, PARTICULARLY THE COMELEC, THAT AN INTERNATIONAL OBSERVER GROUP WOULD BE ACCEPTED AND WOULD RECEIVE THE NECESSARY COOPERATION. WE ARE NOT IN ANY WAY SURPRISED BY THIS SINCE MOST DEMOCRACIES, INCLUDING THE UNITED STATES, ARE EAGER TO HAVE OUTSIDE GROUPS OBSERVE THEIR ELECTIONS SO LONG AS THERE IS NO PARTISAN INTERFERENCE WITH THE PROCESS ITSELF. THE ELECTORAL PROCESS IS SACRED IN A DEMOCRACY AND THE COMMUNITY OF DEMOCRACIES HAS ALWAYS DEMONSTRATED A DESIRE TO WORK TOGETHER TO PRESERVE THAT PROCESS AS A FREE EXPRESSION OF THE NATIONAL WILL.

FINALLY, WHILE WE WILL RESERVE ANY DETAILED COMMENTS ON THE SAFEGUARDS THAT HAVE BEEN ADOPTED BY THE PHILIPPINE GOVERNMENT AGAINST POSSIBLE ELECTION FRAUD, WE DO FEEL THAT SYSTEMS ARE IN PLACE THAT WILL ADEQUATELY DETECT IRREGULARITIES. WE HAVE BEEN IMPRESSED BY THE COMMITMENT MADE BY VARIOUS OFFICIAL AND CITIZENS' ORGANIZATIONS TO ASSURE THE INTEGRITY OF THE ELECTORAL PROCESS. THE PEOPLE WITH WHOM WE HAVE SPOKEN HAVE, TO A PERSON, DEMONSTRATED A CLEAR AND UNEQUIVOCAL UNDERSTANDING OF THE IMPORTANCE OF CONDUCTING A "CLEAN" ELECTION THAT WILL REPRESENT A TRUE EXPRESSION OF THE FILIPINO PEOPLE.

THANK YOU. WE'LL TAKE QUESTIONS NOW.

Q: WHERE IS YOUR FUNDING COMING FROM?

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USIA

USIA FOR EA-GONG; STATE FOR EA-MAISTO

E.O. 12356: N/A
SUBJECT: TRANSCRIPT OF BIPARTISAN OBSERVER DELEGATION'S

A: WE HAVE A VARIETY OF SOURCES OF FUNDING. THE TWO INSTITUTES WERE SET UP UNDER THE NATIONAL ENDOWMENT FOR DEMOCRACY ACT. WE HAVE BOTH PRIVATE FUNDING AND FUNDING FROM THE NATIONAL ENDOWMENT AND FROM OTHER SOURCES AS WELL.

Q: HOW WOULD YOU DESCRIBE YOUR MEETING WITH PRESIDENT MARCOS?

A: WE MET WITH THE PRESIDENT AND HAD A VERY GOOD SESSION WITH HIM LAST EVENING. MOST IMPORTANT TO US WAS THE PUBLIC REITERATION OF PRESIDENT MARCOS' COMMITMENT TO INTERNATIONAL OBSERVERS FOR THIS ELECTION, AND OF COURSE THE REITERATION OF HIS COMMITMENT TO A CLEAN AND HONEST ELECTION. WE BELIEVE THAT THOSE PUBLIC STATEMENTS ARE ESSENTIAL TO OUR MISSION, AND VERY, VERY HELPFUL TO THE WORK THAT WE PROPOSE WHEN WE RETURN TO WASHINGTON.

Q: IN OBSERVING OTHER ELECTIONS, ARE OBSERVERS NORMALLY ALLOWED INSIDE POLLING STATIONS OR NOT?

A: OUR UNDERSTANDING OF THAT IS THAT IT VARIES ALL OVER THE WORLD. I WANT TO MAKE THIS CLEAR THAT WE HAVE SEEN THE COMELEC RESOLUTION THAT WAS ADOPTED YESTERDAY, AND THAT THERE ARE NO SURPRISES IN THAT RESOLUTION. IT IS VERY CLEAR IN THE ELECTION LAW THAT WAS PASSED THAT WE AS FOREIGN OBSERVERS DO NOT HAVE DIRECT ACCESS TO POLLING PLACES. WE DO NOT FEEL THAT THAT IS A THRESHOLD ISSUE. WE BELIEVE THAT FROM WHAT WE HAVE SEEN -- AND WE WILL OF COURSE BE MAKING FURTHER ANALYSES OF THIS QUESTION -- THAT IT IS POSSIBLE TO ADEQUATELY DETECT IRREGULARITIES WHETHER THEY OCCUR IN THE POLLING PLACES OR IN THE COUNTING PLACES THROUGH THE PROCESS.

Q: WHAT DO YOU MEAN BY "THRESHOLD ISSUE"?

A: WHAT I MEAN IS THAT I DON'T THINK THAT AS WE CONSIDER WHETHER OR NOT TO BRING AN INTERNATIONAL TEAM OVER THAT THAT IS GOING TO BE A MAJOR ISSUE THAT WILL INFLUENCE OUR DECISION ONE WAY OR THE OTHER.
Q: DO YOU KNOW WHERE THE NATIONAL ENDOWMENT FOR DEMOCRACY GETS ITS FUNDING?

A: ITS FUNDING IS FROM THE UNITED STATES INFORMATION AGENCY.

Q: WHAT DID YOU FIND OUT IN NUEVA VIZCAYA?

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A: THE PURPOSE OF OUR VISITS OUTSIDE MANILA WAS TO DEVELOP A BETTER UNDERSTANDING OF POLITICAL ATMOSPHERE, THE ELECTIONS PROCESS OUTSIDE THE NATIONAL CAPITAL REGION. I THINK WE FOUND THAT IN THAT REGARD, THE PHILIPPINES IS JUST LIKE EVERY OTHER COUNTRY THAT HAS A CAPITAL AND PROVINCES. ATTITUDES ARE CERTAINLY DIFFERENT, THERE ARE OTHER CONCERNS -- CLEARLY, LOCAL CONCERNS TEND TO DOMINATE THE PROVINCIAL LEADERSHIP AND CITIZENRY -- WE FOUND A REITERATION, AS I THINK ALL OF OUR DELEGATIONS THAT WENT OUTSIDE MANILA DID, OF THE CRITICAL NATURE OF THIS ELECTION, HOW IMPORTANT IT IS TO THE FUTURE OF THE PHILIPPINES, AND THE STRONG DESIRE, AS NOTED IN OUR STATEMENT EXPRESSED BY EVERYONE WITH WHOM WE MET, THAT THIS ELECTION BE CLEAN, THAT IT BE HONEST, AND A REPRESENTATIVE EXPRESSION OF THE WILL OF THE FILIPINO PEOPLE.

SCHUETTE: COULD I MAKE A COMMENT PLEASE; THIS DOESN'T HAVE ANYTHING TO DO WITH THE LAST QUESTION, BUT IT RELATES TO THE INTEREST IN OUR TWO INSTITUTES AND OUR FUNDING SOURCES, ETC. I THINK THIS WAS MADE CLEAR IN THE PRESS RELEASE ABOUT OUR VISIT HERE, BUT I WANT TO CLARIFY IT ONCE AGAIN: WHAT WE ARE CONSIDERING IS THE POSSIBILITY OF BRINGING IN AN INTERNATIONAL OBSERVER GROUP HERE. WE ARE REPRESENTATIVES OF POLITICAL PARTY FOUNDATIONS, AND WE ARE TALKING ABOUT THE POSSIBILITY OF BRINGING OTHER PARTY REPRESENTATIVES FROM ALL OVER THE WORLD INTO THE PHILIPPINES, SO WHILE I KNOW THAT THERE IS INTEREST IN OUR TWO INSTITUTES-- AND THERE SHOULD BE -- THIS IS GOING TO BE AN INTERNATIONAL DELEGATION, IF INDEED WE DECIDE TO GO AHEAD AND PUT IT TOGETHER.

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UNCLAS SECTION 03 OF 06 MANILA 01215

USIA

USIA FOR EA-GONG; STATE FOR EA-MAISTO

E.O. 12356: N/A
SUBJECT: TRANSCRIPT OF BIPARTISAN OBSERVER DELEGATION'S

Q: WHERE WOULD THEY BE FROM?. YOU MENTIONED COUNTRIES...

A: (ATWOOD): I THINK IT IS A LITTLE EARLY TO DEAL IN SPECIFICS SINCE WE HAVE YET TO DELIVER OUR FINAL RECOMMENDATION AS TO WHETHER THE TEAM WILL IN FACT MAKE THE MISSION. I THINK IT IS FAIR TO SAY THAT THE REPRESENTATIVES OF A MISSION, SHOULD IT TAKE PLACE, WILL BE DRAWN FROM THROUGHOUT THE WORLD -- PEOPLE FROM THE EAST ASIAN REGION, AFRICA, CENTRAL AMERICA, SOUTH AMERICA, EUROPE. WHAT WE WOULD BE LOOKING FOR, WERE SUCH A DELEGATION TO BE ASSEMBLED, IS A BROAD-BASED REPRESENTATIVE SAMPLE OF PEOPLE WHO HAVE EXPERIENCE IN THEIR OWN ELECTORAL PROCESS, PEOPLE WHO ARE CRITICAL TO INTERNATIONAL OPINION, AND PEOPLE WHO HAVE A GREAT DEAL OF EXPERIENCE IN OBSERVING INTERNATIONAL ELECTIONS SO THAT THE VERY IMPORTANT OBJECTIVITY, NON-PARTISANSHIP, AND THE CONSENSUS AMONG OUR DELEGATION AGAINST ANY TYPE OF INTERVENTION CAN BE UPHELD.

Q: (UNINTELLIGIBLE)...HOW CAN YOU MONITOR POLLING WITHIN 90,000 VOTING CENTERS?

A: WELL, THAT QUESTION IS TO BE DETERMINED AND THAT'S PART OF WHY WE WERE HERE THIS WEEK. THERE WERE SEVERAL CONSIDERATIONS, OBVIOUSLY. WE WOULD OBVIOUSLY WANT TO GO TO THOSE AREAS WHICH ARE CONSIDERED BY ALL SIDES TO BE SOMEWHAT CRITICAL -- WE HAVE BEEN MAKING THOSE ASSESSMENTS THIS WEEK. SO I THINK THAT I WOULD BE PREMATURE TO COME UP WITH JUDGMENTS ABOUT HOW MANY THAT WE WILL ACTUALLY DEPLOY AT THIS POINT.

I WILL SAY THIS, HOWEVER, WITH RESPECT TO OUR CONSIDERATION OF THIS MATTER, THAT THE MOST IMPORTANT ASPECT OF ALL IS THE ENVIRONMENT WITHIN WHICH WE WOULD TAKE SUCH A GROUP, AND WE HAVE BEEN ASSURED AT THE HIGHEST LEVELS THAT THAT ENVIRONMENT WOULD BE ONE OF WELCOME, AND THAT WE WOULD BE ACCEPTED HERE. WE HAVE HEARD, OF COURSE, SOME WITHIN THE PRESS AND SOME POLITICIANS TALKING ABOUT INTERFERENCE. WE THINK THAT THOSE ARE ISOLATED CONCERNS AND WE THINK THAT WE HAVE GIVEN ASSURANCES ABOUT THAT ISSUE AND WE HAVE RECEIVED, IN TURN, RECEIVED ASSURANCES, FROM PRESIDENT MARCOS, MRS. AQUINO, REPRESENTATIVES OF THE GOVERNMENT, COMELEC, ETC., THAT THE ENVIRONMENT WITHIN WHICH WE WOULD BRING SUCH A GROUP WOULD BE A POSITIVE ONE.

Q: WOULD THERE BE GOVERNMENT OFFICIALS OR JUST PRIVATE CITIZENS...

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A: IT IS CONCEIVABLE THAT, WERE A DELEGATION TO BE DISPATCHED, THAT SOME OF THE MEMBERS OF THAT DELEGATION MIGHT WEAR TWO HATS, AS IS USUAL FOR PARTY OFFICIALS. FOR EXAMPLE, THE INTERNATIONAL DIRECTOR OF A POLITICAL PARTY MAY INDEED BE A CABINET MINISTER OR A SUB-CABINET MINISTER. IT WOULD BE OUR INTENTION TO WELCOME THOSE INDIVIDUALS ON BEHALF OF THEIR PARTIES AND TO LEAVE THE QUESTION OF GOVERNMENTAL REPRESENTATION UP TO THEM. THAT IS A COMPLICATED ISSUE AND WE ARE NOT REPRESENTATIVE OF OUR GOVERNMENT AND WOULD LEAVE THAT ISSUE TO THE INDIVIDUAL MEMBERS.

Q: WOULDN'T THIS) SUGGEST YOU'RE PART OF AN INTERNATIONAL ORGANIZATION...THE INTER-PARLIAMENTARY UNION OR SOMETHING, THAT YOU HAVE LINKS WITH OTHER GROUPS IN OTHER COUNTRIES. IS THAT RIGHT?

A: AS PARTIES, IT IS CERTAINLY A NEW PHENOMENON FOR THE UNITED STATES THAT THE REPUBLICAN AND DEMOCRATIC PARTIES OF THE UNITED STATES HAVE BEGUN TO DEVELOP RELATIONSHIPS WITH POLITICAL PARTIES ABROAD. THIS MISSION, I THINK, IS NOT CONDUCTED IN THE CONTEXT OF ANY ORGANIZATION. WE WOULD SEEK, WERE SUCH A MISSION TO BE CONDUCTED, TO LOOK TO SOME OF THE INTERNATIONAL POLITICAL ORGANIZATIONS WHICH I THINK YOU MIGHT BE FAMILIAR, TO SEND REPRESENTATIVES. I THINK WE UNDERSTAND THAT THOSE ORGANIZATIONS PARTICIPATE IN SUCH ACTIVITIES, BUT THE MISSION ITSELF, I THINK, SHOULD BE PHRASED AS AN EFFORT TO BE CONDUCTED BY THE REPUBLICAN AND DEMOCRATIC INSTITUTES DRAWING IN OFFICIALS FROM AROUND THE WORLD AND OTHER PARTIES, BUT NOT NECESSARILY AS PART OF AN ORGANIZATIONAL STRUCTURE.

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UNCLAS SECTION 04 OF 06 MANILA 01215

USIA

USIA FOR EA-GONG; STATE FOR EA-MAISTO

E.O. 12356: N/A
SUBJECT: TRANSCRIPT OF BIPARTISAN OBSERVER DELEGATION'S

Q: HOW MANY OBSERVERS WOULD YOU RECOMMEND COME HERE TO THE PHILIPPINES?

A: I THINK WE WOULD PREFER TO RESERVE UPON THAT QUESTION. WE WILL WANT TO STUDY THAT FURTHER WHEN WE GET BACK TO THE UNITED STATES.

Q: IS SENATOR LUGAR WAITING FOR YOUR RECOMMENDATIONS BEFORE HE DOES ANYTHING? WHAT'S THE CONNECTION BETWEEN THE FOREIGN RELATIONS COMMITTEE AND YOUR GROUP?

A: I THINK IT'S IMPORTANT, WITHOUT OFFENDING ANYONE HERE WHO MAY HAVE BEEN RESPONSIBLE FOR THE STORY, THAT WE HAVE NOT BEEN DISPATCHED BY SENATOR LUGAR, AS HAD BEEN SUGGESTED IN ONE REPORT. RATHER THIS IS A MISSION THAT OUR TWO BOARDS OF DIRECTORS SUGGESTED THAT WE UNDERTAKE AFTER CAREFUL CONSIDERATION.

SENATOR LUGAR HEARD OF THE MISSION AND ASKED IF WE WOULD TESTIFY UPON OUR RETURN. I THINK THAT IT IS ACCURATE TO SAY THAT THERE IS NO OFFICIAL RELATIONSHIP BETWEEN EITHER OF OUR INSTITUTES AND THE CONGRESS OF THE UNITED STATES. SENATOR LUGAR'S DECISION I WOULD PREFER NOT TO SPEAK TO. I THINK THAT IS AN ISSUE YOU SHOULD ADDRESS TO HIM.

(SCHUETTE): COULD I EMPHASIZE THAT IT WILL BE A DECISION BY OUR OWN BOARD OF DIRECTORS AS TO WHETHER OR NOT WE WILL ACTUALLY PUT AN INTERNATIONAL GROUP TOGETHER AND COME BACK HERE. AND I THINK WE BOTH AGREE AT LEAST THAT IT HAS TO REMAIN BI-PARTISAN WITH RESPECT TO THE UNITED STATES. IF ONE OF OUR BOARD OF DIRECTORS DECIDES THAT THIS ISN'T APPROPRIATE, THEN THE OTHER GROUP PROBABLY WON'T GO AHEAD. SO IT'S IMPORTANT THAT WE GET BACK AND GIVE A REPORT TO OUR BOARD OF DIRECTORS -- THEY ARE THE KEY GROUPS AND THEN WE WILL OBVIOUSLY ALSO BE REVEALING OUR RECOMMENDATION AT THAT SENATE FOREIGN RELATIONS COMMITTEE HEARING.

Q: WHEN IS THIS?

A: JANUARY 23RD.

Q: HOW DIFFERENT IS YOUR DELEGATION FROM THE FIRST DELEGATION THAT CAME HERE?

A: I THINK WE UNDERSTAND THE CONFUSION IN THIS REGARD; I'LL DO MY BEST TO SORT IT OUT. THE CENTER FOR

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DEMOCRACY DELEGATION WAS AN INDEPENDENT DELEGATION WHICH HAD A VERY SPECIFIC MISSION, WHICH WAS TO EVALUATE DEVELOPMENTS IN THE ELECTORAL PROCESS UP TO THE TIME OF THEIR VISIT, AND INDEED TO ESTABLISH WHAT THEY VIEWED AS ESSENTIAL CONCERNS OR RECOMMENDATIONS, HOWEVER ONE MIGHT INTERPRET, THE POINTS ISSUED IN THEIR REPORT. WE HAVE BENEFITTED GREATLY FROM THE TECHNICAL WORK OF THE CENTER FOR DEMOCRACY DELEGATION, BUT OUR MISSION IS VERY MUCH DIFFERENT.

ALL OF OUR DISCUSSIONS THIS WEEK -- WHILE WE CERTAINLY DID, AS WE NOTED IN OUR STATEMENT BEFORE WE LEFT -- CERTAINLY LOOKED AT THE TECHNICAL ELECTIONS PROCESS, THOSE EXAMINATIONS WERE CONDUCTED WITH AN EYE TOWARD AN INTERNATIONAL OBSERVER DELEGATION. AND AS I SAID, (WHILE) WE BENEFITTED GREATLY FROM THE CENTER FOR DEMOCRACY REPORT, THE TWO MISSIONS ARE INDEPENDENT AND WE EXPECT THAT THEY WILL REMAIN THAT WAY.

Q: IF YOU RECOMMEND SENDING A COMMISSION OR...OBSERVERS, DOES THAT PRESUPPOSE YOU DON'T THINK THE ELECTIONS WILL BE CONDUCTED CLEANLY, HONESTLY AND FAIRLY? AND CONVERSELY, IF YOU DECIDE NOT TO, DOES IT MEAN YOU WOULD BE SATISFIED?

A: WE WOULD MAKE NO PRE-JUDGMENTS WHATSOEVER ABOUT THE ELECTION. WE ONLY NOTE THAT THE FILIPINO PEOPLE, AND I'D SAY THIS ACROSS THE BOARD, EVERYONE WE TALKED TO SEEMS TO BE COMMITTED TO MAKING SURE THIS IS A CLEAN ELECTION. WE OBVIOUSLY UNDERSTAND THAT SOME OFFICIALS IN PLACES WILL BECOME OVER-EXUBERANT ABOUT THEIR MISSION. SO THIS OCCURS IN ALL DEMOCRACIES. WE WILL BE MAKING NO PRE-JUDGMENTS ABOUT THAT. THE PRIMARY

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UNCLAS SECTION 05 OF 06 MANILA 01215

USIA

USIA FOR EA-GONG; STATE FOR EA-MAISTO

E.O. 12356: N/A
SUBJECT: TRANSCRIPT OF BIPARTISAN OBSERVER DELEGATION'S

CONSIDERATION IS WHETHER OR NOT WE BELIEVE THAT THE ENVIRONMENT IS SUCH THAT OUR GROUP WILL BE ACCEPTED SO THAT IT CAN DO ITS JOB OF EVALUATING THE ELECTION AND COMING TO SOME CONCLUSIONS ABOUT IT.

(SHUETTE): I SHOULD NOTE ALSO THAT THE UNITED STATES DURING OUR ELECTIONS WELCOMES FOREIGN OBSERVERS, AND I BELIEVE OUR SISTER INSTITUTE SPONSORED A TEAM OF FOREIGN OBSERVERS FOR THE PRESIDENTIAL ELECTIONS IN 1984. I WOULD LEAVE IT TO HIM TO RESPOND AS TO WHETHER THOSE WERE HONEST ELECTIONS OR NOT. I DON'T KNOW.

Q: IF YOU DECIDE TO COME,. YOU DECIDE TO SEND A DELEGATION EITHER, NATIONAL OR INTERNATIONAL...YOU WOULD PRESUMABLY REPORT AFTERWARDS ON WHAT YOU OBSERVED...

A: YES, INDEED.

Q: HOW SOON AFTER YOU SUBMIT YOUR REPORT ON JANUARY 23 WOULD YOU EXPECT A FINAL DECISION TO BE MADE?

A: NO, I THINK THAT ON JANUARY 23 WE WILL ANNOUNCE THE DECISION ON THAT.

Q: ARE YOU SATISFIED WITH THE GUIDELINES SET BY THE COMMISSION ON ELECTIONS FOR FOREIGN OBSERVERS, BECAUSE I UNDERSTAND YOU MET WITH THE COMELEC CHAIRMAN YESTERDAY?

A: I WOULD BEGIN BY NOTING THAT THERE ARE ALWAYS AT LEAST TWO WAYS TO PHRASE ANY STATEMENT. WE READ WITH INTEREST THE STATEMENT THIS MORNING AND PERHAPS IT'S POSSIBLE THAT IT MIGHT HAVE BEEN PHRASED "GUIDELINES FOR INTERNATIONAL OBSERVERS AS OPPOSED TO "GUIDELINES AGAINST INTERNATIONAL INTERFERENCE." AS WE NOTED IN OUR OPENING STATEMENT, THERE WERE NO SUPRISES. IT IS FUNDAMENTAL TO THE MISSION OF AN INTERNATIONAL OBSERVER TEAM THAT RESPECT FOR FILIPINO LAW, FOR WHEREVER A DELEGATION WILL GO, IS CRITICAL TO OUR ABILITY TO RENDER AN OBJECTIVE AND RESPONSIBLE VERDICT. I THINK WE WOULD STAND BY OUR STATEMENT THAT THERE WERE NO SURPRISES AND THAT WE BELIEVE THAT SUCH A MISSION, IF UNDERTAKEN, CAN STILL DISCHARGE ITS RESPONSIBILITIES, MAINTAIN OBJECTIVITY, AND TO DELIVER A REPORT THAT IS ACCURATE AND REPRESENTATIVE OF EVENTS, AND CLEARLY THAT MUST BE DONE WITHIN THE PROVISIONS OF FILIPINO LAW.

Q: I SEE FROM THIS THAT YOU WERE FORMED IN 1983. THIS IS TWO YEARS AGO. WHAT SORT OF OTHER ELECTIONS HAVE YOU OBSERVED IN THE PAST TWO YEARS?

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A: OUR PRIMARY PURPOSE AS INSTITUTES IS TO WORK WITH OTHER POLITICAL PARTIES AROUND THE WORLD. WE'RE CONCERNED ABOUT THE ABILITY OF POLITICAL PARTIES TO OPERATE WITHIN A DEMOCRATIC ENVIRONMENT. WE'RE CONCERNED WITH THE GENERAL ISSUE OF DEMOCRATIC DEVELOPMENT. IN THIS PARTICULAR CASE WE ARE FOCUSING ON THE KEY INSTITUTION OF ANY DEMOCRACY, WHICH IS THE ELECTORAL PROCESS.

HOWEVER, WE HAVE OBSERVED OTHER ELECTIONS IN JUST THE BRIEF TIME THAT WE HAVE BEEN IN EXISTENCE -- IN GUATEMALA IS THE MOST RECENT ONE -- AND I DON'T THERE ARE TOO MANY OTHERS, PERHAPS GRENADA -- IS THAT ONE? (INTERJECTION: GRENADA AND URUGUAY.)

IT'S NOT OUR PRIMARY MISSION -- I'LL BE QUITE FRANK WITH YOU -- THAT IS WHY WE BROUGHT SOME ELECTION EXPERTS -- AND THEY DON'T LIKE THAT PHRASE -- EXPERTS ON OBSERVING ELECTIONS, PEOPLE WITH A GREAT DEAL OF EXPERIENCE WITH US, SUCH AS MR. PENNIMAN WHO IS IN BACK AND MR. GARBER, WHO ISN'T HERE.

Q: HAVE THERE BEEN ANY INSTANCES IN WHICH YOU CONCLUDED A SUDDEN ELECTION WAS NOT DONE PROPERLY?

A: IN TERMS OF OUR OWN INSTITUTES, I THINK THE ANSWER TO THAT IS NO. BOTH MR. GARBER AND MR. PENNIMAN -- WHO ARE VERY EXPERIENCED IN THIS FIELD AND HAVE DONE THIS, IN MR. PENNIMAN'S CASE FOR 25 YEARS -- MAY HAVE RENDERED SUCH A VERDICT IN THE PAST, I DON'T KNOW. BUT AS INSTITUTES, NO, WE HAVE NOT DONE THAT.
(SHUETTE): HOWEVER, LET ME JUST UNDERSCORE THIS

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UNCLAS SECTION 06 OF 06 MANILA 01215

USIA

USIA FOR EA-GONG; STATE FOR EA-MAISTO

E.O. 12356: N/A
SUBJECT: TRANSCRIPT OF BIPARTISAN OBSERVER DELEGATION'S

POINT: WE WOULD NOT UNDERTAKE THIS MISSION IF WE WERE NOT PREPARED TO BE TOTALLY OBJECTIVE ABOUT IT. I THINK THAT I SPEAK FOR BOTH OF US IN SAYING THAT WE HOPE AND PRAY THAT THIS WILL BE A CLEAN ELECTION AND THAT WE CAN SAY SO.

THANK YOU. END OF TEXT. MORTON

ANNEX IV

COMELEC REBUTTAL TO CENTER FOR DEMOCRACY REPORT

FACT SHEET

ON

THE ISSUES RAISED IN THE CENTER FOR DEMOCRACY REPORT ON THE PHILIPPINE ELECTIONS (WEINSTEIN REPORT) SUBMITTED TO THE US SENATE FOREIGN RELATIONS COMMITTEE ON DECEMBER 18, 1985

1. Issue: Despite assurances of fair and free elections by the administration, various segments have expressed concerns over: a) Continuation of the President's capacity to use broad decree powers; b) A legal regime permitting "preventive detention" without trial and the suspension of the writ of habeas corpus in various regions of the country; and c) Aftermath of the "murder of Benigno Aquino, Jr. and subsequent court proceedings related to that crime, which galvanized intense opposition sentiment in the Philippines."

Fact

The President's "broad powers" are spelled out and legitimized in the Philippine Constitution. Certainly, only a constitutional amendment, not the passage of an election law, can alter this. The exercise of these powers by the President, including the power to commit any person under "preventive detention" in order to defuse grave and imminent danger to society, are always in accordance with the Constitution which was approved, through valid plebiscites, by the Filipino people.

The use by the President of these powers for election purposes is purely speculative. Moreover, such use will be known by the public and opposition may choose to use it as an issue in the campaign that can hurt the President. It is a fact, however, that the President has not availed of this power since the calling of the "snap" election.

At the Aquino trial proceedings, these and the subsequent final judgment were conducted and arrived at through the scrupulous observance of Philippine laws by a competent court, again, in accordance with the Constitution.

2. Issue: The President could exercise his decree power to call for the election notwithstanding any Supreme Court decision nullifying the calling of the election by the Batasan.

Fact

It was the Batasang Pambansa, the country's legislative body, not the President, that enacted the legal instrument

calling for a "snap" election . . ./

calling for a "snap" election. The fact is that the President did not exercise his so called "broad decree power"; he did not issue a decree calling for such election. As Member of Parliament Leonardo Perez had informed The Center for Democracy delegation during its visit to the Philippines in December, the President would not use his decree-making power because the subject matter involves himself and his own personal interest. In any event, the Supreme Court ruled on December 19, 1985 that the "snap election law" (Batas Pambansa Blg. 883) was valid and constitutional, by a vote of 7 to 5.

3. Issue: The involvement of the President in decisions over the deployment of forces was added in the 1973 Constitution, its 1935 predecessor Constitution having conferred exclusive authority in these matters on COMELEC.

Fact

The framers of the Philippine Constitution included this provision in pursuance of the President's responsibility as Commander-in-Chief of the armed forces. In

normal condition, the military are, by law, confined to barracks during election time. But the military may be deputized by the COMELEC to assist it to ensure the holding of a free and orderly election in emergency cases like preventing violent disorders or threats to the conduct of free and orderly elections. The President's power and responsibility for the effective and wise disposition or deployment of forces, during elections in ordinary times, are not in conflict with but strengthens the ability of the COMELEC to conduct elections in which the members of the military who were deputized performed exceptionally well. In any case, there would be no reason for the President, whatever his constitutional prerogatives, not to defer to the COMELEC's decision on deputizing the military.

4. Issue: The broad powers conferred upon the COMELEC in the accreditation of the Dominant Opposition Party (DOP) is a source of major concern to the principal opposition ticket, the UNIDO ticket of Aquino-Laurel.

Fact

The COMELEC must adhere to the rules that are clearly defined in the Omnibus Election Code of the Philippines (Batas Pambansa Blg. 881). As is well-known, the Code

is the product . . ./

is the product of serious and meticulous legislative deliberations by the Members of Parliament from both the majority and opposition parties. President Marcos approved a code that enjoyed widely bipartisan endorsement and broad popular support. Again, the "concern" on the COMELEC's "broad power" concerning DOP accreditation has been laid to rest by subsequent events. The UNIDO which carries the Aquino-Laurel ticket has been accredited as the DOP.

5. Issue: Campaign finances are broadly regulated by the Code, but virtually every participant in the process, both government and opposition, declared that these financing restrictions are "dead". In this regard, opposition representatives expressed concern about the President's broad power over the disbursement of Government funds. P.D. 1177 empowers the President to redeploy the budgetary resources, viewed as a potential source of abuse by members of the opposition.

Fact

These restrictions are not "dead". On the contrary, the COMELEC has issued strict and elaborate regulations on the monitoring of excessive campaign spending and to this end, a group has been created in the COMELEC to track-down violations of the law. Also, these regulations can be used not only by the COMELEC but also by both the majority and the opposition parties as the basis for pursuing legal action against overspending during the elections. The President's disbursement of funds, on the other hand, is governed by existing laws, and is not exempt from auditing requirements. It is a matter of public record. Neither is the President exempt from the observance of laws on spending during the election period.

6. Issue: Concerns about financing were also expressed by the ruling party representatives who fear funding of the UNIDO ticket by foreign sources, particularly from the United States.

Fact

The Code has an explicit provision against foreign intervention, which may be effected through overt or covert financial contributions to political parties. This prohibition applies to all countries and foreign entities, including the United States. Reports or evidence of violations will certainly be taken seriously by the COMELEC, if not by either or both parties.

7. A common device . . ./

7. Issue: A common device to ensure the security of the ballot and tabulating sheets is to use a special water-marked paper. Since new watermark could not be obtained in less than 90 days, the COMELEC has been left with no practical alternative other than to use the watermark from the 1984 election, viewed by the opposition as something that might facilitate the preparation of fraudulent ballots. Although this concern appears reasonable, there are no alternatives readily available to the COMELEC.

Fact

The concern is without basis in view of the fact that the security of watermark itself is not downgraded simply because it is of 1984 vintage. Moreover, the opposing parties in this election are afforded more than sufficient oversight capability by means of their membership in the inspection groups that control or monitor the manufacture of the security paper, the printing, distribution and proper disposition not only of ballots, but also tabulation sheets, and other accountable forms connected with the conduct of an election.

8. Issue: COMELEC's computer-based "Super Quick Count" would substantially limit opportunities for fraud in the tabulation process. But grave doubts must exist as to its actual operation because the program has not been funded, no equipment has been purchased or leased, and no contract has been signed. Yet only a short time remains prior to the election. Quick tabulation and dissemination of election results are vital to ensure credibility of elections.

Fact

The computer-based "Super Quick Count" system is the product of a careful and scientific study started long before the "snap" election was announced. It is not true, therefore, that "time is limited" in ensuring its effective implementation. Incidentally, the machine and equipment to be used are of U.S. fabrication, and the system is based on U.S. models. The system is clearly an improvement over that used in earlier Philippine elections which was much criticized not only for inadequacy of men but also of the machine and systems employed. In any case, the necessary fund for the project has already been approved.

9. The failure of . . ./

9. Issue: The failure of the COMELEC to designate the UNIDO Aquino-Laurel ticket as DOP would make the holding of credible elections in the Philippines impossible.

Fact

This is moot and academic. The COMELEC has accredited UNIDO, the party of the Aquino-Laurel tickets, as the DOP.

10. Issue: On the role of the military, opposition members have expressed grave concern that the army and especially the CHDF might be used to intimidate poll workers and steal unfavorable election returns. The opposition has also expressed strong doubts as to the neutrality of many of the senior officers of AFP.

Fact

It is a matter of record that the armed forces has, in past elections, been neutral and has assisted effectively in the conduct of clean, honest, orderly, fair and credible elections, consistent with its role of peace-keeping and safeguarding the public interest during the electoral process. The CHDF, under the Omnibus Election Code, are expressly prohibited from any involvement in the process. Any violation of this prohibition can be brought to the attention of the COMELEC at any time during the election for appropriate action and resolution in accordance with the law.

11. Issue: The failure of the COMELEC to accredit NAMFREL as a citizens' arm with opportunity to conduct poll-watching functions and reporting, including "Operation Quick Count", would raise the most serious questions as to the integrity of the whole electoral process.

Fact

This is moot and academic. The COMELEC has accredited NAMFREL.

It is, however, incorrect to suggest that the integrity of the whole electoral process rests on NAMFREL just as it is incorrect to say that it rests on the COMELEC alone.

NAMFREL must be . . ./

NAMFREL must be subjected to the same degree of objectivity by which other citizens' monitoring groups are or should be judged. There is no place for any form of bias in judging the performance or integrity of any entity, and this should apply to NAMFREL as much as it applies to all persons or institutions involved in the electoral process, including the COMELEC.

12. Selective application and enforcement of the registration procedure could hamper the accuracy of the voter registration lists and jeopardize the ability to guard against fraudulent voting activity by flying voters.

Fact

Registration procedures are applied and enforced evenly, precisely for the purpose of safeguarding against the entry of fraudulent voters. In any case, the DOPs are represented in this stage of the electoral process and may vote against the approval of illegal registraton.

13. Issue: The opposition is of the strong opinion that, with the exception of one "wildly independent" commissioner, COMELEC commissioners are partisan KBL members who are under the direction of President Marcos.

Fact

All COMELEC commissioners, whatever their political persuasions, ceased to be partisan when they took their oath of office to uphold the Constitution which mandates the independence of the COMELEC. The last 1984 election attests to this. The official acts of the Commissioners are matters of public record and anyone, including the opposition, can, under the law, bring any COMELEC member to court for any partisan activity which is in violation of the Constitution.

14. Issue: The opposition has expressed grave doubts as to its ability to obtain equal access to the media or even adequate press coverage of its activities.

Fact

The facts do not sustain these doubts. The law provides that the COMELEC allocate equal time and space in the media during the campaign period. To its credit, the media, on

their own initiative, . . ./

their own initiative, have presented balanced reporting of the activities of both the majority party and the opposition party.

15. Issue: The campaign period is very abbreviated, and the so-called "COMELEC time" has not begun, a significant portion of the opposition's opportunity to discuss campaign issues through the mass media also passes.

Fact

The campaign period provides all parties equal opportunities to bring their message to the Philippine electorate. The campaign period applies equally to both the ruling party and the opposition. Furthermore , the Philippine electorate are generally aware of the stand of the candidates and their party on the issues because these have been well-publicized in the mass media long before the decision to hold the "snap" election. The views of the outspoken opposition, are well-known to the public.

* * *

ANNEX V

NAMFREL EVALUATION OF 1984 ELECTION

The National Citizens' Movement for Free Elections or NAMFREL, a non-partisan, volunteer organization whose primary objective is the holding of clean elections, was given a first crack at its objective on May 14, 1984 – election day for the 183 members of the First Regular Session of the Batasang Pambansa (Philippine Parliament). Confronted by skeptics and doubting thomases from both the opposition and government ranks, the boycott movement and other groups who were out to discredit the whole democratic process, the NAMFREL stood its ground and found strength in its motto: "It is better to light a candle than to curse the darkness".

With a group of leaders whose credibility and dignity were unquestionable, the NAMFREL found its allies in the civic, professional, educational, and church organizations whose memberships supported NAMFREL's' crusade to restore the Filipino people's faith in the ballot's power as the most appropriate vehicle to express (not just protest) their aspirations.

In this debut article, Christian Monsod, NAMFREL Chairman of Metro Manila and a businessman, talks about the vigilance of NAMFREL's 200,000 volunteers throughout the country, the effectiveness of NAMFREL as he compares its performance vis-a-vis its objectives, and finally, NAMFREL in the future.

NAMFREL-Testing Democracy at the Grassroots

by CHRISTIAN S. MONSOD

May 14, 1984 was a significant day for the Filipinos. It was election day for 183 members of the Batasan Pambansa (parliament), the first regular legislative body since 1972. It was also a day of foreboding.

In the face of a highly visible boycott movement and the obvious use by the KBL of all the resources at its disposal, including those of the government, many political and media analysts were prepared to predict that the elections would confirm the supremacy of the President and the First Lady for a KBL landslide. President Marcos and the opposition would be lucky if 30 of its assemblymen would be elected and the First Lady went on record that Metro Manila, under her campaign generalship, would elect all 21 KBL candidates.

More important, however, than just the results of elections was the question on whether the electoral process itself would remain a viable option for the expression of the people's will. The resentment of the people seemed to be unprecedented in the face of the Aquino assassination and the economic crisis. Yet, there were equally clear signs that the KBL political machinery was still intact and the government was not prepared to allow a dilution of its power through a massive opposition performance at the polls. If the elections were patently manipulated, would the people accept it as decidedly as in previous years? In the ultimate analysis, democracy was going to be tested in the country and the question was, would it survive?

What happened on election day was unprecedented and, in many ways, unexpected. There was overwhelming participation, perhaps as a form of protest but a clear chance for peaceful electoral processes nonetheless. While the opposition may have won a majority of the seats contested, or perhaps even of the Batasan, if results of doubtful validity turn out to have been won by the opposition, the elections for about 63% of the seats were sufficiently free from anomalies to be considered valid. And even in those districts with questionable results, there were numerous instances where the people refused to be cowed and, in fact, are still pursuing their protests with vigor i.e., Antique, Iloilo Province, Pampanga, Northern Samar, to name a few.

Democracy did survive, however tenuously. The people did give it a chance and seem to be willing to continue doing so. One of the institutions responsible for making the 1984 elections a hopeful experience for the country was the National Citizens Movement for Free Elections (NAMFREL).

NAMFREL is a non-partisan, volunteer organization whose primary objective is clean elections. It had its antecedent in an organization of the same name in the early 1950s which went out of existence in the later years of the decade. Various other movements were subsequently organized for the same purpose among them CNFA and CINACORP. Shortly after the Aquino assassination, a new citizens group was organized by Jose Concepcion Jr., a businessman, who had made clean elections a personal crusade for 17 years and who was also one of the founders of the Citizens League for Good Government in the sixties. After undergoing several changes, the name NAMFREL was adopted in November 1983 with the permission of its original chairman, in the context of the country's electoral history of the past 12 years, it was a most unlikely candidate to succeed in what seemed like a quixotic mission.

NAMFREL was criticized by both the government (as favoring the opposition) and the boycott movement and the leftist elements (as being mere tools of the government and the U.S.). A Jesuit priest who headed a city chapter in Mindanao answered the critics. "We are partisan only for truth, justice and elections." But NAMFREL survived both attacks mainly by ignoring them. It adopted the motto, "It is better to light a candle than to curse the darkness", moved on and found vindication in its own performance.

From a longer perspective, the obvious questions are: How effective really was NAMFREL? Did it achieve its stated objectives? What was the NAMFREL phenomenon and what is its future?

NAMFREL effectiveness

There is ample evidence that NAMFREL's policewatching activities did make a difference in the elections. One may has to listen to the statements of candidates such as former Justice Cecilia Munoz-Palma ("NAMFREL is the miracle of the 1984 elections!") and many others who considered their victory a triumph as well of NAMFREL's regiment. But, there were also detractors, such as one provincial candidate who called it "Tamirel" and a Metro Manila mayor, whom KBL candidate lost by a wide margin, who publicly stated, "We would have won had it not been for NAMFREL."

How does one measure effectiveness?

NAMFREL classified the electoral districts according to a rating of 1 to 5 in which those rated 1, 2, and 3 were districts in which the elections may be considered valid either because there were no anomalies or they were insufficient to materially affect the results. Category 4 was composed of those districts where disorderliness and suspected fraud were of such a magnitude that they could have materially affected the results and Category 5 were those in which elections may be considered a failure.

In addition to these five categories there were 9 electoral districts with ten seats in which NAMFREL had no meaningful presence for various reasons, including physical prevention by local officials or lack of volunteers because of the peace and order situation or overwhelming control by government forces.

NAMFREL's assessment is that the elections for about 125 seats, classified under categories 1, 2 or 3 may be considered valid. The elections for 48 seats were classified under categories 4 and 5 and were, therefore, of doubtful validity. A correlation of the election results according to party affiliation and the ratings of 1 to 5 resulted in the following:

- In the districts where elections may be considered valid, categories 1, 2 and 3, the KBL won 49% and the non-KBL won 51% of the seats (62 vs. 63 seats respectively).
- In districts rated as 4, the KBL won 70% and the non-KBL won 30% of the seats (15 vs. 6). In the districts rated as 5, the KBL won 89% and the non-KBL 11% of the seats (24 vs. 3).
- For the 10 seats in which NAMFREL had no canvassing for one reason or another, all 10 seats were won by the KBL.
- In Metro Manila, the region where NAMFREL was probably most organized with about 30,000 volunteers, the opposition took 15 of

the 21 seats with another seat won by the KBL being considered highly questionable for failure of election.

Performance vs. Objectives

NAMFREL was accredited by the Commission on Elections (COMELEC) as its citizen arm in November 1983. It had six months to organize and train volunteers to man about 85,000 voting centers all over the country not only on election day but also during four days of registration.

A new list of voters was authorized by the interim Batasan Pambansa which would be valid for 12 years. It was obvious that if elections were to represent the true will of the electorate, that old list had to be purged of flying voters roughly estimated at about 4 million.

The new registration of voters was only one of several institution-building legislation advocated by NAMFREL. It also helped bring about, among others:

a) an amendment to the Constitution that members of the Batasan are to be elected by province or district rather than by region;

b) changes in legislation that enabled the opposition to qualify for accreditation and thereby be entitled to inspectors in the citizens' election committee;

c) discontinuance of the system of block voting;

d) the enactment of a 1984 election code that contained at least 15 critical procedural amendments to protect the integrity of the ballot;

e) the withdrawal of the proposal to increase the number of Batasan members from 200 to 230, with the additional thirty to be appointed by the President rather than elected;

f) the withdrawal of a proposal that would give undue advantage to incumbent assemblymen over new candidates by giving the former the right to run anywhere in the region as an exception to the residency rule;

g) the introduction of a provision that gave immunity to persons from questioning, arrest or detention during and after the campaign period for alleged violations of law and decrees pertaining to the security of the state;

h) appointment of two commissioners to the COMELEC, bringing up their number to seven out of the nine positions.

While not all proposals of NAMFREL were given due course, particularly the repeal of Amendment 6 (which gave the President absolute decree-making powers) and the appointment of commissioners to the last two vacancies in the COMELEC from a list submitted by civic, professional and educational groups, it was the judgment of NAMFREL that the reforms were sufficient, from the point of view of legislation, to make clean elections possible. Many other things had to be done. But since elections are processes, procedures themselves constitute the substance of the right to vote.

The other objectives of NAMFREL, in addition to legislative reforms, were a) the creation of an environment and opportunities for new leaders to emerge; b) the politicization and mobilization of ordinary citizens in the task of good government and c) after twelve years of an authoritarian government, the need to overcome our self-image as losers unable to determine our own destiny.

The total number of volunteers, coming from all sectors and all walks of life, was about 200,000. Many more appeared on election day, asked for *Bantay ng Bayan* badges and stood vigil, accompanied the transfer of ballot boxes, contributed food and transportation and essentially made themselves useful in many unselfish ways. Many did not even bother to enter their names in the NAMFREL roster and simply worked quietly, effectively and without public recognition.

Stories abound about NAMFREL volunteers, such as the happening in the third district of Quezon City where entire neighborhoods suddenly appeared in a festive community spirit. On the other hand there was an atmosphere of tension and grim determination in such places as Tondo, Nueva Vizcaya, Antique, Tarlac, Mountainprovince and Davao del Norte where a group of citizens who called themselves Villena's Valiants (after the bishop who acted as NAMFREL's chairman for the area) stood their ground against a private army. Nuns manned the most dangerous polls in Pasay, the Bicols province and a dozen other places. Catholic Women's League members, most of them in uniform, watched for hours beside lawyers, doctors and businessmen. The women were the staunchest and most persevering volunteers. And then there were the youth.

In Metro Manila, the youth volunteered in large numbers, particularly in Quezon City, Makati, Taguig and Pasay. On the eve of elections, in a barangay in the fourth district of Quezon City where no volunteers could previously be found, an urgent call came for a rumor at 8:00 p.m. The volunteers turned out to be about thirty young people, some in their teens, who had previously worked for the boycott movement but had decided at the last minute to do "something constructive". In Makati and Taguig, groups of young volunteers from poor neighborhoods, some of them in law school, confronted barangay captains and their goons with detailed knowledge of their rights under the election law and prevailed, even to the extent of taking pictures of erring barangay officials.

Just as impressive were the family volunteers and the sense of community that they inspired – husbands, wives, children and neighbors in common cause. There were couples from the Christian Family Movement (CFM) who went out almost daily from parish to parish talking about how they want to build a better country for their children. The Manila Jaycees managed to harness church groups in Tondo by appealing to parish priests and conservative lay leaders to follow their leadership in a battle they themselves were facing for the first time. Neighborhood families formed human rings around ballot boxes in Las Pinas to lend them in car pools they themselves had the foresight to organize.

But there was also tragedy. Many volunteers were beaten up. Two were killed in Mindanao, one by the NPA, the other reportedly by a barangay official. This exemplified the risks the volunteers faced from all sides.

And there was endless frustration. The biggest was the unpredictability of the COMELEC. The introduction of a supposedly indelible ink as a safeguard against flying voters was a fiasco since the ink was, for the most part, erasible with plain rubbing alcohol. The question of what really happened has never been answered.

There were stories, too, of courageous and dedicated teachers who acted as chairmen of the citizens election committees. Despite some reports of teacher participation in anomalies, the great majority of the teachers performed admirably in a dangerous and thankless task.

The stories could go on and on.

In the process, new leaders emerged in local communities, more credible than the traditional political "patrons". Ordinary citizens discovered one another and their own power for affirmative action. NAMFREL was mass action at the grassroots that added a new dimension to the concept of institution-building.

The NAMFREL Experience and the Future

The May elections were only partially successful in terms of ensuring a democratic electoral exercise. Whatever was achieved was due to many factors, of which NAMFREL was only one, albeit a major one in many areas. In this sense, the NAMFREL success was not of its own making. It happened to be there at the right place and at the right time. It helped that its national leadership had credibility and the local chapters attracted just as credible leaders. It helped that civic, professional, educational and church organizations endorsed it fully to their membership. Its greatest attraction was in being perceived by most people as an appropriate vehicle to express, not just protest, their aspirations for peaceful change.

In July 1984, the COMELEC suddenly withdrew the accreditation of NAMFREL as its citizen arm in a meeting to which the lone commissioner recommended by civic and professional groups was not invited. The restoration of such accreditation is unlikely without continued pressure by citizens. Meanwhile, work has to go on for the enactment of a new election code as soon as possible and the filing of maximum proceedings against multiple registrants. It is estimated that in Metro Manila alone there are at least 400,000 registered flying voters.

NAMFREL hopes to function again as the citizen arm of the COMELEC in the coming elections but will continue to exist with or without accreditation under a *Bantay ng Bayan* theme. At its first public rally on October 19, 1984 in Makati, the movement unfurled its flags that proclaimed its total mission – *Bantay ng Kalayaan*, *Bantay ng Konstitusyon*, *Bantay ng Katarungan* – Guardian of Freedom, Truth and Justice. Its philosophy will remain the same – non-partisanship, volunteerism, community-based membership and the development of a "moderate" option for non-violent change. Already its chapters in organizing citizen forums where Members of Parliament (MPs) are asked to answer to their constituencies for their performance at the Batasan Action committees are pressuring public officials to place greater priority on community problems, such as the flooding problem in Malabon, a municipal mayor and his barangay captains identified with the KBL have publicly endorsed NAMFREL proposals, including the repeal of Amendment 6.

Philippine political life will never be the same again after the trauma of martial law, the Aquino assassination, the rallies and demonstrations, the awakening of the indifferent, the renewed militancy of the labor student and even business sector. Above all, are the beginnings of citizen empowerment to which NAMFREL was a major contributor. It is a phenomenon that must be further harnessed, by NAMFREL and other concerned citizen groups, if the task of good government is truly every citizen's responsibility. ●

ANNEX VI

COMELEC RESOLUTIONS PROMULGATING FEBRUARY 7, 1986 SPECIAL ELECTION FOR THE PRESIDENCY

TABLE OF CONTENTS

Resolution No.	Subject Matter	Promulgation
1721	In the matter of fixing the election period in connection with the elections for President and Vice-President on February 7, 1986.	Dec. 3, 1985
1722	Rules on the certificate of candidacy for President and Vice-President of the Philippines for the February 7, 1986 elections.	Dec. 3, 1985
1723	IN RE: Establishment of precincts throughout the country.	Dec. 3, 1985
1724	RE: General Instructions for the Board of Election Inspectors on registration of voters for the election of President and Vice-President on February 7, 1986.	Dec. 6, 1985
1725	In the matter of the deputation of Minister of Finance, designation of Provincial, City and Municipal Treasurers as representatives of the Commission on Elections and prescribing their functions and duties as Election Officials in the Presidential Elections on February 7, 1986.	Dec. 9, 1985
1726	In the matter of Registration of Political Parties for the election for President and Vice-President on February 7, 1986.	Dec. 9, 1985
1727	In the matter of the appointment of representatives of the accredited political parties to the board of election inspectors for the election of President and Vice-President on February 7, 1986.	Dec. 9, 1985
1728	In the matter of the use of special paper with watermarks in the printing of official ballots and the original copy of election returns for the February 7, 1986 election.	Dec. 10, 1985
1729	In the matter of the rules, guidelines and procedures in the enlistment of groups and organizations as citizen arms of the Commission.	Dec. 12,1985
1730	IN RE: Designation of the Minister of Education, Culture and Sports as deputy, Provincial and City Superintendents of Schools as Comelec representatives and district supervisors	Dec. 13,1985

1730	and school principals as their assistants, and the appointment of public school teachers as chairmen and poll clerks of the boards of election inspectors for the election of President and Vice-President on February 7, 1986.	Dec. 13, 1985
1731	RE: Rules and regulations governing election propaganda through mass media in connection with the election for President and Vice-President on February 7, 1986.	Dec. 13, 1985
1732	IN RE: Creation of Committees for the election of President and Vice-President on February 7, 1986 elections.	Dec. 13, 1985
1733	In the matter of the Printing and Distribution of the Certificates of Candidacy of Candidates for President and Vice-President in the February 7, 1986 election.	Dec. 13, 1985
1734	In the matter of the procurement of supplies, equipment, materials or services needed for the February 7, 1986 election for President and Vice-President.	Dec. 14, 1985
1735	In the matter of implementing the prohibitions on appointment or hiring new employees, creating or filling new positions, promotions, giving any salary increase, or transferring or detailing any officer or employee in the Civil Service, in connection with the February 7, 1986 election.	Dec. 17, 1985
1736	RE: General Instructions on the holding of a plebiscite in the province of Negros del Norte.	Dec. 17, 1985
1737	RE: Formation of Special Action Team for a more effective enforcement and implementation of election laws and the rules and resolutions of the Commission in connection with the February 7, 1986 special election for President and Vice-President.	Dec. 17, 1985
1738	In the matter of fixing other periods and dates for certain pre-election acts in connection with the February 7, 1986 elections.	Dec. 17, 1985
1739	RE: Rules on illegal release of prisoners in connection with the election for President and Vice-President on February 7, 1986.	Dec. 20, 1985
1740	RE: Rules on the liquor ban in connection with the election for President and Vice-President on February 7, 1986.	Dec. 20, 1985

1741	In the matter of the printing storage and distribution of official ballots and election returns for the February 7, 1986 election.	Dec. 23, 1985
1742	In re: In the matter of requesting the President of the Philippines for standby authority to deputize law enforcement agencies and instrumentalities of the government, including the Armed Forces of the Philippines for the purpose of ensuring that the February 7, 1986 election for President and Vice-President shall be free, orderly and honest.	Dec. 24, 1985
1743	RE: Rules on prohibitions regarding (a) appointment or use of special policemen or agents; (b) use of armored land, water or air craft; (c) wearing of uniforms and bearing arms and (d) bodyguards or security guards, organization of reaction forces.	Dec. 24, 1985
1744	RE: Rules on the Public Works ban during the period preceding the election for President and Vice-President on February 7, 1986.	Dec. 24, 1985
1745	RE: Rules on the Firearm Ban during the election period in connection with the election for President and Vice-President on February 7, 1986.	Dec. 24, 1985
1746	RE: Rules on lawful and prohibited forms of election propaganda in connection with the election for President and Vice-President on February 7, 1986.	Dec. 24, 1985

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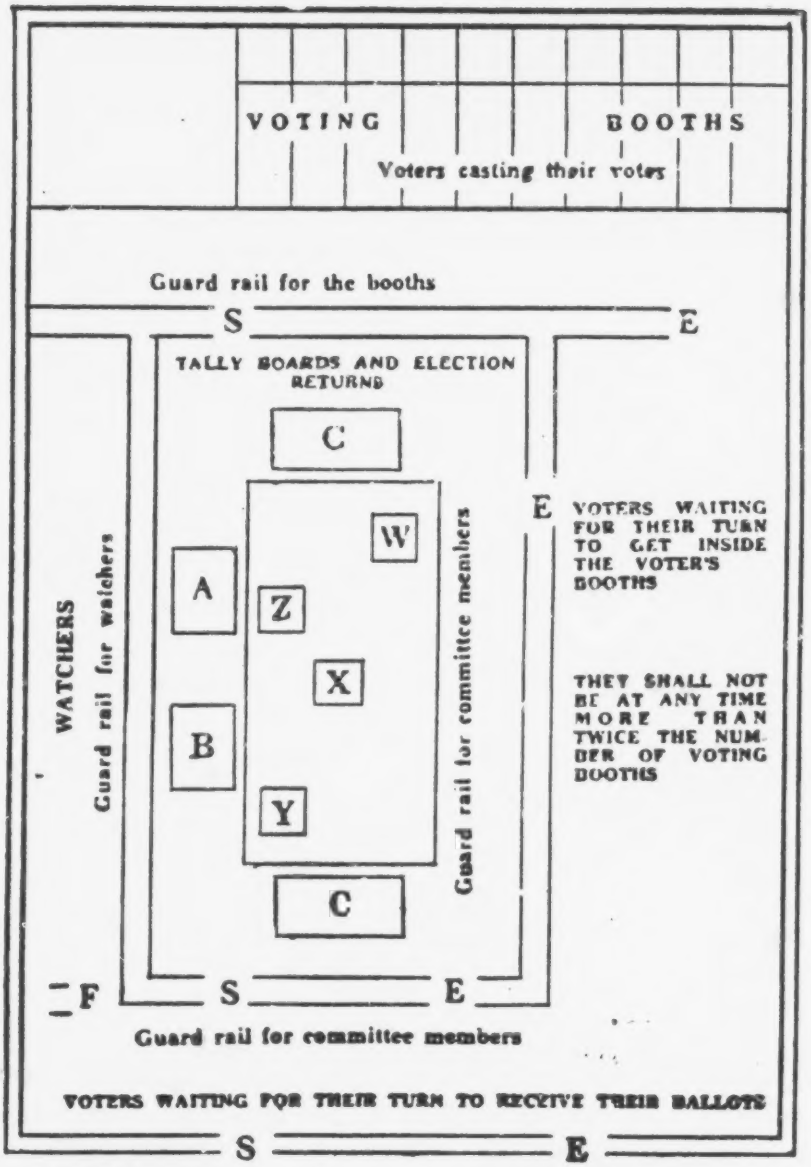
ANNEX VII

POLLING PLACE SKETCH

76

SKETCH OF POLLING PLACE

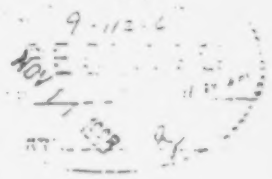


A — Chairman
B — Poll clerk
C — Member
E — Entrance
F — Door
S — Exit
W — Stationery forms, etc.
X — Ballot Box
Y — Book of voters
Z — Unused official ballots

ANNEX VIII

PRESIDENT MARCOS' LETTER TO THE BATASANG PAMBANSA REQUESTING SPECIAL ELECTION FOR THE PRESIDENCY

FERDINAND E. MARCOS
PRESIDENT OF THE PHILIPPINES



November 11, 1985

The Batasang Pambansa
Thru the Honorable
Speaker Nicanor E. Yñiguez
Quezon City

The Honorable Members
Batasang Pambansa:

In 1981 the Filipino electorate by overwhelming vote renewed my mandate for the leadership of the nation. I have responded to that summons with uncompromising fidelity to duty.

The same fidelity compels me now to face a responsibility thrust upon me by certain developments affecting the presidency. Over the past two years the mandate conferred upon me has been the object of propaganda and dissent that have cast a shadow over the continuing validity of the policies and programs I have instituted under the moral authority of that mandate. Yet the need of the moment is an undivided nation; innumerable tasks await our collective effort. There is no moment to lose. Neither can we prevaricate on the issue laid at our door, the issue of the validity of our present efforts in government, especially our approach to economic recovery and the insurgency problem. Clearly the mandate of 1981 must be placed before the people for reexamination.

I am, therefore, left no choice but to seek a new mandate in an election that will assess, as demanded by the opposition, the policies and programs I am undertaking. Such an election necessarily shortens my tenure. But the necessity arises from no less than the time-honored principle of public accountability, inherent in a democracy and explicit in our Constitution.

I seek public judgment now on policies and programs of a fundamental nature because they involve national growth and honor. For instance, we need to pursue further action in accord with the ideology we are endeavoring to follow. We must carry out the revolution of the poor which we have

instituted. We must support more forcefully with appropriate measures our rejection of foreign ideologies that do not fit into our traditions and beliefs as a people. We must carry on the program for human resources development, comprising such projects as the livelihood program, self-reliance, cottage industries, and small- and medium-scale industries.

The basic policies we have laid down concerning land ownership, labor and education must be pursued with vigor and vitality. We must continue with barangay participatory democracy and our rejection of the old social service dole system so as to lift our people from mendicancy to self-reliance through livelihood programs. We must preserve the maintenance of an open society and continue giving the lower and upper classes of our people equal opportunity in order that the former can develop their God-given faculties and rise to positions of leadership. The infrastructure program that emphasizes the development of the countryside must continue. Most of all, the nation must maintain social concord and coherence; free, honest and orderly elections; social justice; freedom of assembly; freedom of speech and other freedoms enshrined in our Constitution, all the frontiers of which have been advanced by the present administration and yet are now questioned by the opposition and their propagandists.

The final settlement of these issues can be achieved only through a presidential election. Once these fundamental issues are settled by mandate of our people, we shall be able to re-establish the unity of our nation. Our government and people will then be able to respond to the challenges of our times free from the threats and vexations which may negate the effectivity of the government institutions created to implement these policies and programs.

To pave the way for the holding of a special election for President, I hereby irrevocably vacate the position of President effective only when the election is held and after the winner is proclaimed and qualified as President by taking his oath of office ten (10) days after his proclamation. In all presidential elections, it has been the practice and tradition in all democracies that the President continues in office until the President-elect shall have qualified and assumed office. This practice should be continued and not modified. Any alternative will cause an undesirable and dangerous hiatus in the government.

I am obliged, therefore, to inform the Batasang Pambansa that a vacancy will definitely and inevitably occur in the Office of the President upon fulfillment of the conditions I have stated.

In order to submit the fundamental and national issues that urgently need resolution, we should hold an election for President distinct and apart from local elections where parochial and personal issues are involved.

I, therefore, strongly recommend that the Batasang Pambansa exercise its plenary legislative powers to pass a special law establishing the mechanism to hold such an election. A suitable date seems to be January 17, 1986, so that the start of the election campaign period of forty five days shall be December 2, 1985.

Accordingly, I am recommending the enactment of a Cabinet bill calling for presidential elections on January 17, 1986.

Truly yours,

FERDINAND E. MARCOS
President of the Philippines

ANNEX IX

NAMFREL QUICK COUNT

NAMFREL
MANUAL NO. 3
OPERATION QUICK COUNT

3

I. INTRODUCTION

Operations Quick Count (OQC) aims to ensure FAST AND ACCURATE count on each precinct.

As OQC Municipal Chairman, you hold the key in achieving this objective. To help you effectively do this, we have prepared this OQC manual. It will assist you:

1. Organize OQC in your area
2. Train your volunteers
3. Implement OQC during elections

In a nutshell, there are four basic steps in OQC operations:

1. Submit the Noon Situation Report (Form NS)
2. Submit the Transmission Copy (Copy 2) of the Precinct Tally Sheet (Form PT)
3. Secure the signatures of the Board of Election Inspectors on the Certification Copy (Copy 1) of Form PT
4. Submit Copies 1 and 3 of Form PT

II. The OQC Forms

A. Form NS (Noon Situation)

1. Purpose

This form is used to report the conduct of elections in a precinct as of twelve noon (12:00 p.m.) of election day. It will give the National Headquarters an indication of the conduct of elections nationwide, as well as to pinpoint unusual events and trouble areas.

2. What to do with the form

Pre-Election:

a) One day before elections, distribute to OQC School Chairman (SC) as many sheets as there are precincts in his/her school assignment.

b) The OQC School Chairman fills in the following information:

b.1) Province or Highly Urbanized City

Form NS

NOON SITUATION REPORT

Province or Highly Urbanized City	
City, Municipality or District	
School	
Precinct Number	

Indicate on this form the conduct of election as of 12 noon of election day.

CONDUCT OF ELECTION	Encircle one	Please explain why C or D
Valid	A	
Valid with some problems	B	
Questionable validity	C	
Failure of election	D	

OQC Precinct Canvasser	OQC School Chairman	OQC Municipal Coordinator

A-2

PRECINCT TALLY SHEET

Form PT

Province or Highly Urbanized City

City, Municipality or District

School

Precinct Number

Number of Votes Cast

Copy 3 - City or Municipality File Copy

Barangay

Number of Precincts in the School

RESULT OF COUNT	Votes in Figures	Votes in Words
For President		
1. MARCOS		
2. AQUINO		
For Vice-President		
1. TOLENTINO		
2. LAUREL		
3. KALAW		

CONDUCT OF ELECTION	Encircle One	Please explain why C or D
Valid	A	
Valid with some problems	B	
Questionable validity	C	
Failure of election	D	

Time	OQC Precinct Canvasser	OQC School Chairman	Municipal Chairman
Date	(Print Name and Sign)	(Print Name and Sign)	(Print N... and Sign)

Delivered by:

Received by:

Tabulated by

ANNEX X

NAMFREL EVALUATION FORMS

Form PT — Copy I

PRECINCT TALLY SHEET — Form P1

Province or Highly Urbanized City
City, Municipality or District
School
Precinct Number
Number of Votes Cast

Copy I - Certification Copy

Barangay
Number of Precincts in the School

RESULT OF COUNT	Votes in Figures	Votes in Words
For President		
1. MARCOS		
2. AQUINO		
For Vice-President		
1. TOLENTINO		
2. LAUREL		
3. KALAW		

WE HEREBY CERTIFY that the candidates above have obtained in this precinct the votes set opposite their respective names:

BOARD OF ELECTION INSPECTORS

Chairman

K. B. L. — Opposition — NAMFREL

Time / Date	OQC Precinct Canvasser (Print Name and Sign)	OQC School Chairman (Print Name and Sign)	Municipal Chairman (Print Name and Sign)

TO OQC SCHOOL CHAIRMAN:

PLEASE DETACH THIS PAGE AND OBTAIN CERTIFICATION OF BOARD OF ELECTION INSPECTORS.

Received by: — Tabulated by:

Form PT

PRECINCT TALLY SHEET — Form P1

Province or Highly Urbanized City
City, Municipality or District
School
Precinct Number
Number of Votes Cast

Copy 1 - Certification Copy

Barangay
Number of Precincts in the School

RESULT OF COUNT	Votes in Figures	Votes in Words
For President		
1. MARCOS		
2. AQUINO		
For Vice-President		
1. TOLENTINO		
2. LAUREL		
3. KALAW		

WE HEREBY CERTIFY that the candidates above have obtained in this precinct the votes set opposite their respective names:

BOARD OF ELECTION INSPECTORS

Chairman

K. B. L. — Opposition — NAMFREL

Time	COC Precinct Canvasser	COC School Chairman	Municipal Chairman
Date	(Print Name and Sign)	(Print Name and Sign)	(Print Name and Sign)

TO COC SCHOOL CHAIRMAN:

PLEASE DETACH THIS PAGE AND OBTAIN CERTIFICATION OF BOARD OF ELECTION INSPECTORS.

ANNEX XI

RAM's KAMALYAN 86 PROGRAM

KAMALAYAN '86 REFERENCE MANUAL

I. SITUATION:

The AFP is the primary institution entrusted with the task of securing and maintaining a peaceful society. This task has become more pronounced with the forthcoming polls for the Presidency and Vice Presidency.

In past elections, however, the AFP was perceived to have fallen short of the public's expectations for it to remain impartial and non-partisan. This time the AFP will again be put to the test to help ensure clean and honest elections and to demonstrate its political neutrality. The present popular clamor for an honest, free, fair and clean elections impinges upon the AFP's basic mission. Therefore, it is imperative for the AFP to actively participate in all phases of the activity.

In this light and in line with the President's pronouncements that the conduct of the coming snap Presidential elections should be honest, clean, free and fair, the Reform AFP Movement (RAM) guided by its aspirations, and compelled by a strong sense of professional responsibility will embark on an undertaking known as KAMALAYAN '86.

II. OBJECTIVES:

a) General:

1) To operationalize the RAM's response to the call of the Commander-in-Chief for an honest, clean, fair and free elections.

2) To counter the boycott movement being encouraged by some sectors.

3) To counter the claim of the CPP/NPA that elections are a farce and will not make any difference.

4) To emphasize the non-partisan role of the AFP in the coming elections, and obviate the feeling in some quarters that the AFP will be used as a tool to favor certain sectors.

5) To develop better appreciation and awareness of the individual and collective roles of the soldiers, as well as the public in general, in the electoral process.

6) To enhance the credibility of the RAM in particular and the AFP in general vis-a-vis the Filipino people.

b) Specific Objectives:

1) To enhance public appreciation and understanding of relevant electoral issues, and the qualifications of the candidates.

2) To maximize registration of voters, and encourage public involvement in the clean-up of voter's lists.

3) Encourage citizen attendance in political rallies and open discussion of viewpoints.

4) Urge the citizens to vote, and not to sell their votes.

5) Call for public vigilance against fraud and coercion at all stages of the electoral process.

6) Impart to AFP personnel the significance of an honest, clean, fair and free elections, and the crucial role of the AFP in preventing attempts to subvert the will of the people.

7) To develop working relationships with civic, business, and religious organizations, and other government institutions, for mutual support and the promotion of a heightened civic-consciousness.

III. CONCEPT OF OPERATIONS:

a) General:

1) The Reform AFP Movement (RAM), and retired AFP Generals, in coordination with business, civic and religious organizations will conduct a series of prayer-seminars with the theme. "Honest, clean, fair and free Elections". The prayer-seminars will start with an ecumenical service followed by speakers from the COMELEC, NAMFREL, and other institutions, on the electoral process and detection and prevention of electoral frauds.

2) RAM NCR will conduct five (5) mini-symposia in major camps in the region plus a final prayer-seminar in a public area on Sunday—— 020900H Feb '86. In case the prayer-seminar cannot be held inside camp for whatever reason, alternate places outside camp will be designated.

3) Regional RAM organizations will hold prayer-seminars in as many camps as possible in their respective areas, plus a final prayer-seminar on Sunday 020900H Feb '86 at an appropriate public place.

b) Specific:

1) The project, dubbed as "KAMALAYAN 86" will be implemented in NCR by the RAM Election Sub-Committee. In addition, the NCR Election Sub-Committee will establish primary and secondary lines of communications with regional RAM representatives, and monitor, integrate and coordinate all activities related to "KAMALAYAN 86".

2) Regional RAM organizations will create regional election sub-committees to plan and implement regional "KAMALAYAN 86" activities. Regional organizations are free to develop and implement their respective concepts in attaining the objectives of the project. RAM NCR, however, will provide a copy of the Reference Manual to all regional chapters for guidance and possible adoption. Whenever possible, RAM NCR will provide names and affiliations of organizations supportive of the project in NCR, to include names and affiliations of their organizations in each region.

IV. ORGANIZATIONAL CONCEPT

RAM NCR will provide the general guidelines and support for all "KAMALAYAN 86" related activities. Regional organizations retain autonomy in planning and implementing their respective programs. See Annex A for details.

V. ADMINISTRATION AND LOGISTICS:

a) All regional organizations are autonomous in planning and implementing "KAMALAYAN 86" activities. The only guiding principles are the general and specific objectives cited, and the holding of simultaneous prayer-seminars in as many places nationwide on Sunday 020900H Feb 86.

b) All regional organizations will provide respective logistical support. RAM NCR, however, will provide financial support dependent on material support that will be received from the different sectors of society. It is suggested that regional organizations solicit material support from regional business, civic, and religious organizations, along the same lines as NCR RAM.

VI. COORDINATING INSTRUCTIONS:

a) Implementation of regional plans will commence after media pronouncement by RAM NCR.

b) All attempts to stop, deter or prevent implementation of "KAMALAYAN 86" activities must be reported immediately to NCR RAM.

ANNEX XII

COMELEC RESOLUTION REGARDING ROLE OF FOREIGN OBSERVERS DURING SPECIAL ELECTION

Republic of the Philippines
COMMISSION ON ELECTIONS
M a n i l a
--oOo--

RE: Rules and regulations against foreign intervention.

P R E S E N T :

SAVELLANO, Victorino A.,Chairman
OPINION, Jaime, Commissioner
BALUAGAN, Freilan M.,Commissioner
FELIPE, Ramon M., Jr.,Commissioner
MANQUINEZ, Quirino A.,Commissioner
ORTIZ, Mario D., Commissioner
GURO, Mangontawar B.,Commissioner

Promulgated:
January 10, 1986

x - - - - - - - - - - - - - - - - - x

RESOLUTION NO. 1747

WHEREAS, Section 81 of the Omnibus Election Code provides as follows:

"SEC. 81. Intervention of foreigners. - It shall be unlawful for any foreigner, whether juridical or natural person to aid any candidate or political party, directly or indirectly, or take part in or influence in any manner any election, or to contribute or make any expenditure in connection with any election campaign or partisan political activity. (Sec. 36, 1978 EC)"

WHEREAS, foreign groups or individuals and members of media will be coming to observe the February 7 1986 election;

WHEREAS, it is the duty of this Commission to issue rules and regulations to implement the provisions of the Omnibus Election Code and to guide the said foreign groups or individuals coming to this country for said purpose;

NOW, THEREFORE, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, and Batas Pambansa Blg. 883, the Commission on Elections RESOLVES as follows:

SECTION 1. Registration required.- Any panel, committee, sub-committee, organization, group, association or individuals, whether private, government or member of media, who may want to observe elections in the Philippines, shall, first register with the Commission on Elections;

Any individual or group of the category defined in the preceding paragraph already in the country upon the promulgation of this resolution shall have forty-eight hours to register from notice or publication of this resolution.

SEC. 2. Identification cards. - The Commission on Elections shall register any applicant and issue individual identification cards to such applicants.

SEC. 3. Privileges. - Those who are duly registered shall have the following privileges:

A. Before election day:

1. Request any official or agency of the government for interview or briefing on the electoral process;

2. Confer with representatives of registered political parties, candidates or their representatives on any matter they may wish to be informed about, but thereafter refrain while in the Philippines from making any remarks or statements which constitute partisan political activity as defined by the Omnibus Election Code;

3. Confer with representatives of media, and private firms or organizations that are under contract by the government or any political party or candidates on any matter they may wish to be informed about;

4. Such similar activities they may wish to undertake provided these shall not constitute partisan political activity.

B. On election day:

1. To observe the election in any locality subject to the following limitations applicable to the Comelec's citizen arms and other persons as provided in the Omnibus Election Code:

> "52 (K), § 2. - ..... Members or units of any citizen group or organization so designated by the Commission ..... shall not be allowed to enter any polling place except to vote, and shall, if they so desire, stay in an area at least fifty meters away from the polling place.;"

x x x x x x x x x x x x x x x

"Sec. 192. Persons allowed in and around the polling place. - During the voting, no person shall be allowed inside the polling place, except the members of the board of election inspectors, the watchers, representatives of the Commission, the voters casting their votes, voters waiting for their turn to get inside the booths whose number shall not exceed twice the number of booths and the voters waiting for their turn to cast their votes whose number shall not exceed twenty at any one time. The watchers shall stay only in the space reserved for them, it being illegal for them to enter places reserved for the voters or for the board of election inspectors or to mingle and talk with the voters within the polling place;"

2. Interview voters, political leaders and other individuals and make audio, visual or audio-visual recordings in any place, subject to the limitations provided in the preceding paragraph;

3. Undertake any such other activities anywhere in the Philippines provided these shall not constitute partisan political activity.

C. After the election:

1. Observe the canvass of votes by the various provincial and city Boards of Canvassers;

2. Observe the proceedings of the Batasang Pambansa as the National Board of Canvassers.

All those registered may travel to any part of the country to perform the acts above-mentioned, but shall not engage in any partisan political activity.

SEC. 4. Penalty for violation. - Any violation of above-quoted Sec. 81 of the Omnibus Election Code shall be punishable under Sec. 264 of the same Code with one to six years' imprisonment and deportation.

SEC. 5. Effectivity. - This resolution shall take effect immediately upon promulgation.

SEC. 6. Dissemination. - The Law Department shall implement this resolution and the Education and Information Department shall cause the publication of the same in two (2) daily

newspaper of general circulation immediately after promulgation thereof, and shall furnish copies to all registered political parties, all candidates, and the Ministry of Foreign Affairs which shall disseminate them to its foreign service establishments and to representatives of foreign countries in the Philippines, and assist in the implementation of this resolution.

SO ORDERED.

VICTURINO A. SAVELLANO
Chairman

JAIME OPINION
Commissioner

FROILAN M. BACUNGAN
Commissioner

RAMON M. FELIPE, JR.
Commissioner

QUIRINO A. MARQUINEZ
Commissioner

MARIO D. ORTIZ
Commissioner

MARGUNTAWAY B. GURO
Commissioner

National Democratic Institute
for International Affairs

National Republican Institute
for International Affairs

MEMORANDUM

TO : NDI and NRIIA International Observer Team

FROM: J. Brian Atwood, NDI
Keith Schuette, NRIIA

RE : Terms of Reference

DATE: January 31, 1986

The observations of this mission and those of other credible sources will form the basis for our conclusions about the February 7 presidential election in the Philippines. Our mission, therefore, requires that all observers attempt to document observations and in all cases distinguish factual information from subjective judgements.

Delegation members will be provided with evaluation forms. The sponsoring organizations will attempt to assess the election from a national perspective in the final evaluation, and we would like you to review the issues we feel are important to accomplishing this objective. These terms of reference have been prepared for that purpose.

I. The Political Campaign

A. Adequacy of the Campaign Period: Was the time provided for campaigning adequate to permit all parties to communicate their respective messages to voters? Was the time provided adequate to permit the establishment of tamper-proof electoral procedures?

B. Restrictions on Campaigning: Did the participating parties have access to all regions of the country to conduct their respective campaigns? Were there any de jure or de facto restrictions on political campaigning by participating parties or others?

National Democratic Institute
for International Affairs
2000 M Street, N.W. Suite 630
Washington, D.C. 20036
(202) 887-6151 Telex 248570 HOGANDER

National Republican Institute
for International Affairs
601 Indiana Avenue, N.W. Suite 615
Washington, D.C. 20004
(202) 783-2280 Telex 5106000161NRIIA

C. Political Arrests: Have there been any arrests, detentions, or killings of party leaders or other individuals during the campaign which appear politically motivated?

D. Intimidation: During the campaign, were candidates or voters intimidated, in the form of explicit or implicit threats to vote for a specific candidate or to vote at all, by security forces, political parties, or by insurgent groups? What was the government's response to such actions?

E. Improper Campaign Practices: Was there evidence of vote-buying or other illegal campaign tactics by either party? How did COMELEC respond to complaints about improper campaign practices?

II. Role of the Media

A. COMELEC Time: Did COMELEC provide the major parties adequate and relatively equal access to the media through allocations of COMELEC time?

B. Media Access: Were parties permitted to purchase time and space in the Filipino media?

C. Coverage of the Campaign: Did the Filipino media give adequate and balanced coverage of the political campaign?

D. Censorship: Was there any censorship of the print or broadcast media? Were any journalists intimidated through arrest, detention, or death during the campaign period?

III. Administration of the Election

A. COMELEC: Did the Commission on Elections (COMELEC) and local elections officials act in a non-partisan manner?

B. Voter Registration: Were the statistical improbabilities and other problems with the voter registration lists recognized by COMELEC corrected prior to the election? If not, did other safeguards in the law act to prevent the phenonema of "flying" and "ghost" voters?

C. Fraud Prevention: Were the safeguards established to prevent such fraudulent practices as the stuffing of ballot boxes utilized at all precincts?

D. Counting of Ballots: Were the safeguards to ensure against fraud in the counting and canvassing processes utilized at all precincts and canvassing centers? Was there evidence that disputes in the counting or canvassing process

were resolved in a partisan manner? Were there suspicious delays in the preparation of the election returns or the certificates of canvassing?

E. Role of Observers: Were the two leading parties, NAMFREL, and other accredited watchers permitted access to all precincts and canvassing centers? Were complaints witnessed by party poll-watchers, NAMFREL representatives or other observers handled in a non-partisan manner?

F. Environment at the Polling Site: According to information provided from those permitted access to polling sites, were voters able to cast a secret ballot? Was there any intimidation of voters by security forces, private armies, local leaders, political parties, or insurgent groups on election day?

IV. The Results

A. Announcement of Official Results: Are the official results being reported in accordance with the provisions of the Philippines Election Code? Do the official results coincide with those reported by NAMFREL's Quick Count? Are there unreasonable delays in the canvassing process being caused by frivolous objections?

B. Ability of the winner to assume power: Is the winner of the election likely to assume power in accordance with the provisions setting the terms of the election?

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INTERNATIONAL
SECURITY AFFAIRS

22 FEB 1986

Honorable Richard Lugar
United States Senate
Washington, DC 20510

Dear Senator Lugar:

As requested by Senator Dodd at the hearings of January 23, the U.S. Army has conducted a review of requests for documents relating to President Marcos' wartime service. I have enclosed the results of that review which include a chronology of the requests and the pertinent supporting documents. If any further questions arise in this matter, I would be pleased to respond to your requests for information or clarification.

Sincerely,

Richard L. Armitage
Assistant Secretary of Defense
(International Security Affairs)

Attachments
a/s

The Washington Post
1150 15th STREET, N. W.
WASHINGTON, D. C. 20071
(202) 334-6000

WRITER'S DIRECT TELEPHONE NUMBER
202 334-7400

Oct. 20, 1982

Dear Ms. Maesur:

I would like to submit another request. I am writing this separately to avoid the risk that it might be held up because of lengthy processing that the Maharlika queries might possibly entail.

I would like to have some details about the service record of 1st Lt. Juan Ma. Sabalburo, 052723. Was he ever assigned to the 14th Inf. Regiment of the U.S. Forces in the Philippines, Northern Luzon. If so, what positions did he hold? Was he ever decorated for valor? If so, for what action, what award and from what headquarters? What general ordrs?

I would be grateful for answers to any or all of these questions.

Yours Truly

John Sharkey

COPY FOR .TUUK INFORMATION

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
U.S. ARMY RESERVE COMPONENTS PERSONNEL AND ADMINISTRATION CENTER
ST. LOUIS, MO 63132

FILE

REPLY TO ATTENTION OF
AGUZ-PSE-AP

29 November 1982

The Washington Post
Attn: Mr. John Sharkey
1150 15th Street, N.W.
Washington, DC 20071

Dear Mr. Sharkey:

This is in reply to your inquiry regarding the military service of Juan M. Sabalburo.

The official records show that Mr. Sabalburo had guerrilla service as a member of G Company, 14th Infantry Regiment, USAFIP-NL (U. S. Armed Forces in the Philippines, Northern Luzon). He attained the rank of First Lieutenant; however, no information is available regarding the positions he held. No record was found showing he was decorated for valor.

It is important to emphasize that records on the Philippine campaigns are incomplete. The absence of records should not be interpreted as a definite indication about what actions or decorations did not occur.

Sincerely,

IRWIN R. BERNDT
MAJ, GS
Deputy Director, Personnel Services
Directorate

58-714 O - 86 - 7

The Washington Post
1150 15th STREET, N.W.
WASHINGTON, D.C. 20071
(202) 334-6000

WRITER'S DIRECT TELEPHONE NUMBER
334-7400

Nov. 12, 1982

Dear Ms. Maesur:

I would like to add to my request for information a query about two other guerrilla units that were purported to be active in the Philippines during the Japanese occupation.

These units are the Dragon Hunters, said to be active in Pangasinan and Tarlac provinces and the Northerners who were said to be active in the Ilocos provinces.

I would like to have such material as rosters, reports on activities, awards, unit citations, individual decorations and claims for back pay.

Thanks again for your help.

Regards,

John Sharkey

John Sharkey
Assistant Foreign Editor
The Washington Post

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
U.S. ARMY RESERVE COMPONENTS PERSONNEL AND ADMINISTRATION CENTER
ST. LOUIS, MO. 63132

REPLY TO ATTENTION OF:

AGUZ-PSE-AP

26 November 1982

The Washington Post
ATTN: John Sharkey (Assist. Foreign Editor)
1150 15th. Street, N. W.
Washington, D. C. 20071

Dear Mr. Sharkey:

This is in response to your 12 November 1982 inquiry requesting information on the Dragon Hunters and Northerners guerilla units purported to be active in the Philippines during the Japanese occupation.

A search of those archival records at the US Army Reserve Components Personnel and Administration Center has failed to identify that the two guerilla units operated in either a recognized or unrecognized status during the Japanese occupation.

I regret that I cannot be of any further service to you in this matter.

IRWIN R. BERNDT
MAJ, GS
Dep Dir, Personnel Services

The Washington Post
1150 15TH STREET, N.W.
WASHINGTON, D.C. 20071
(202) 334-6000

WRITER'S DIRECT TELEPHONE NUMBER
(202) 334-7400

Rec'd 14 Dec 82
Suspense to OSD 28 Dec 82

December 8, 1982

Dear Ms. Maesur:

I have received the rosters of the Maharlika from Maj. Berndt and I thank him-and you.

By way of clarification I would like to ask the meaning of the first roster I was sent several weeks ago. That consisted, you may recall, of names of officers of the 14th Infantry Regiment. Is that to be considered part of Maharlika?

Would you confirm for me that the 201 file of President Ferdinand E. Marcos of the Philippines reflects the award of only one U.S. Silver Star?

I would like a photocopy of the letter from Headquarters, U.S. Army Forces Pacific, dated 6 July 1946 in which the validity of Major Marcos' claim for the U.S. Distinguished Service Cross and the U.S. Silver Star for the exploits on Bataan in January and February 1942 is acknowledged. You may recall we discussed this on the phone.

I am enclosing for onpassing to Maj. Berndt, a copy of some general orders awarding Lt. Juan M. Sabalburo the Bronze Star. In response to one of my queries he wrote that there was nothing in your records to indicate that Sabalburo was ever decorated for valor. I found these general orders during research at Suitland.

My continued apprecition for your assistance.

Yours sincerely

John Sharkey

John Sharkey
Assistant Foreign Editor
Washington Post

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

GENERAL ORDERS)
:
NO.....278)

APO 500
3 August 1946

BRONZE STAR MEDAL

By direction of the President, under the provisions of Executive Order 9419, 4 February 1944 (Sec. II, Bulletin 3, WD, 1944), the Bronze Star Medal is awarded by the Commander-in-Chief, United States Army Forces, Pacific, to the following-named officer:

First Lieutenant JUAN MA. SABALBURO, 052723, Infantry, Philippine Army. For heroic achievement in connection with military operations against the enemy on Luzon, Philippine Islands, on 14 March and from 26 March to 1 April 1945. As Executive Officer and Acting Company Commander, Company H, 14th Infantry, Philippine Army, United States Army in the Philippines, North Luzon, Lieutenant Sabalburo exhibited dauntless courage and inspiring leadership in directing the heroic and gallant defense of the Rapid Airstrip, Ibulao, Mountain Province, against overwhelming numerically superior enemy forces, with minimum losses to friendly troops and heavy enemy casualties. He displayed outstanding professional knowledge in the disposition and employment of security outposts along the Seriza-Dezo-Bongol-Silinan line, driving back strong enemy forces. Later, he again successfully warded off attempts by a powerful hostile force to reduce his men during seven days of bitter battle. Because of a lack of ammunition and food he was forced finally to withdraw from the airstrip, but only after exacting a heavy toll from the enemy. His employment and exploitation of every natural advantage of the terrain for defense, coupled with his determination and marked command ability, did much to save the 2d Battalion from encirclement and annihilation. Through

(GO 278)

his outstanding professional competence, seasoned judgment, and unremitting devotion to duty, Lieutenant Sabalburo upheld the finest traditions of the service.
Address: Casilagan, San Juan, La Union, Luzon, Philippine Islands.

AG-PA 201

BY COMMAND OF GENERAL MacARTHUR:

PAUL J. MUELLER,
Major General, General Staff Corps,
Chief of Staff.

OFFICIAL:

John B. Cooley
JOHN B. COOLEY,
Colonel, AGD,
Adjutant General.

ROUTING AND TRANSMITTAL SLIP Date: 20 Jan 83

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Mrs. Maeser, PAO		
2.		
3.		
4.		
5.		

Action		File		Note and Return	
Approval		For Clearance		Per Conversation	
As Requested		For Correction		Prepare Reply	
Circulate		For Your Information		See Me	
Comment		Investigate		Signature	
Coordination		Justify			

REMARKS

The attached letter has been coordinated with Mr. Bill Walker, TAG and Major Shifferl, SGS.

Incl
as

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post) Room No.—Bldg.

IRWIN R. BERNDT, MAJ, GS, DEP DIR, PS Phone No. 37777

5041-102 OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

* GPO : 1981 O - 361-529 (133)

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
U.S. ARMY RESERVE COMPONENTS PERSONNEL AND ADMINISTRATION CENTER
ST. LOUIS, MO 63132

REPLY TO
ATTENTION OF

January 20, 1983

Personnel Services Directorate

The Washington Post
Attn: John Sharkey (Asst Foreign Editor)
1150 15th Street, N.W.
Washington, D.C. 20071

Dear Mr. Sharkey:

This is in response to your letter dated December 8, 1982 requesting information on those items described below.

During previous communications, you were furnished rosters on two distinctly different guerrila units: C Company Ang Manga Maharlika, and Headquarters, 14th Infantry, United States Armed Forces in the Philippines, Northern Luzon. To answer your question, there is no tie-in between the two rosters. On this issue, you initially were attempting to verify Ferdinand Marcos' participation in the Maharlika, hence your request for the roster on that organization. However, as I explained in my November 29, 1982 response, Ferdinand Marcos' participation in the Maharlika was prior to that organization's formal recognition by this government; therefore, his name does not appear on the unit roster. It should be noted that when the Maharlika was formally recognized, Ferdinand Marcos was serving as a member of the 14th Infantry; therefore, that roster was sent to you to confirm that Ferdinand Marcos did in fact perform creditable guerrila service.

Your questions regarding confirmation of the number of Silver Star Medals awarded to Ferdinand Marcos and a photocopy of the letter from Headquarters, U.S. Army Forces Pacific, dated 6 July 1946 have been referred to the US Army Military Personnel Center, Attn: DAPC-ALA, 200 Stovall Street, Alexandria, Virginia 22332, for direct response to you.

I wish to thank you for enclosing general orders regarding Lt Juan M. Salalburo, which you found in your research.

Sincerely,

Irwin R. Berndt
Major, GS
Deputy Director, Personnel Services

ACUZ-PS [illegible] 28 July 1983

SUBJECT: Declassification of WWII Philippine Guerrilla Rosters

The Adjutant General Center
ATTN: DAAG-AMR (Dr. J. H. Hatcher)
Hoffman Bldg I
Alexandria, VA 22331

1. Reference, fonecon between Dr. Hatcher, MAJ Berndt, and Ms Rhodes on 21 Jul 83, SAB.

2. As agreed during the referenced conversation the WWII Philippine guerrilla rosters need to be declassified; therefore, a representative roster is furnished for consideration in this matter.

3. The inclosed guerrilla roster of the Ang Mga Maharlica has received much notoriety, because it was the unit to which Fredinand Marcos claimed affiliation. However, the period for which he claimed affiliation was prior to the unit's date of recognition and his name does not appear on the roster.

1 Incl
as

IRWIN R. BERNDT
Major, GS
Deputy Director, Personnel Services

DECLASSIFIED

August 12, 1983

Freedom of Information Office

SUBJECT: Releasability Determination - Philippine Archives Documents

LTC Roman Maddela
Office of the Military Attache
Embassy of the Philippines
1617 Massachusetts Ave, N.W.
Washington, D. C. 20036

Dear Colonel Maddela:

Reference attached guerilla roster of the Ang Mga Maharlica, dated 11 February 1945.

This document is the subject of a Freedom of Information Request to the United States Army. In order to respond to this request, we must review the document for declassification and determine if it is releasable to the public.

Although the record itself was created by the U.S. Army, the information could be of particular interest to your government or people. For this reason we would like to have your views on the possible declassification and release of this document to researchers and to the public.

Thank you very much for your attention to this matter. If you have any questions, please do not hesitate to contact this office at 697-7993.

Sincerely,

signed Frank Dill

Donald P. Press
Colonel, General Staff
Director of Counterintelligence

Enclosure

DECLASSIFIED CONFIDENTIAL WHEN ENCLOSURE IS WITHDRAWN SEPARATE FROM CLASSIFIED ENCLOSURES

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT CHIEF OF STAFF FOR INTELLIGENCE
WASHINGTON, DC 20310

DECLASSIFIED

REPLY TO ATTENTION OF

DAMI-CIS(L) 12 October 1983

SUBJECT: Declassification of World War II Philippine Guerilla Rosters

HQDA (DAAG-AMR)
ATTN: Dr. Hatcher
Room 1138, Hoffmann I
2461 Eisenhower Avenue
Alexandria, Virginia 22331

1. Reference letter, DAAG-AMR-D (83-120), dated 2 August 1983, subject as above.

2. We have referred the documents sent to this office with reference letter to the Philippine Embassy for review and a releasability determination. A copy of our letter is attached at Enclosure, along with the documents.

3. On 14 September 1983, Mr. Roger Pierce of this office received a telephone call from a Mr. Agrudyi of the Philippine Embassy. This gentleman indicated that it is the desire of the Philippine Government that the lists of names of individuals involved in World War II guerilla activities in the Philippines, such as that forwarded by your letter, remain classified. A written confirmation of this desire should follow in the near future, and a copy will be forwarded to you at that time.

4. POC at this office is Mr. Pierce, 697-7993.

FOR THE ASSISTANT CHIEF OF STAFF FOR INTELLIGENCE:

1 Incl
as

DONALD P. PRESS
Colonel, GS
Director of Counterintelligence

DECLASSIFIED
CONFIDENTIAL SECRET

REGRADED UNCLASSIFIED WHEN SEPARAT
FROM CLASSIFIED INCLOSURES

PEN#1 1-4

Sept. 13, 1983

NPRC
St. Louis, Mo.

Dear Director;

I would like to request copies of certain material in the "Philippine Archives."

I have obtained a list of these documents in that collection from the Office of the Chief of Military History. A covering document states that the collection is maintained by the Philippine Army Branch of the Reserve Components Personnel and Administration Center in St. Louis.

The material I am seeking is described on the list as:

"General Orders, United States Forces in the Philippines Headquarters, Ft. Mills, 1942

"File: 300.4 bk 14, Microfilm No 77"

Thank you for your assistance.

Sincerely,
John Sharkey
John Sharkey
4728 46th St. nw
Washington, D.C.
20016

October 18, 1983

Personnel Services Directorate

Mr. John Sharkey
4720 44th Street, NW
Washington, D.C. 20016

Dear Mr. Sharkey:

This is in response to your letter of September 13, 1983 requesting copies of certain material contained in the "Philippine Archives".

The Archives are in the process of being transferred from the custody of the Department of the Army to the National Archives. Unfortunately, the transfer is occurring at a time when you seek information; however, the transfer action has been long in waiting and is necessary for the preservation of this unique collection of historical documents. During the transfer period, which should be completed during the latter part of November 1983, the entire collection will be closed to the public.

You are also advised that classified documents have been found to be interfiled throughout the collection. Therefore, it is the position of the Department of the Army that the "Philippine Archives" remain closed to the public after the transfer period until such time that the contents of the collection can be thoroughly reviewed to determine whether or not the need for classification exists and if it does, to what extent.

Should you desire to discuss this matter in further detail, you may direct your comments to Dr. John Henry Hatcher, Archivist of the Army, Headquarters, Department of the Army, Attn: DAAG-AMR, Hoffman Building I, Alexandria, Virginia 22331.

I regret that our response to you cannot be more favorable.

Sincerely,

Irvin R. Bernadt
Major, General Staff
Deputy Director, Personnel Services

CF: Dr. J. H. Hatcher, DAAG-AMR

DARP-ZPA 28 January 1986

MEMO FOR RECORD:

1. The following information is compiled from telephone call notes concerning a 28 Sep 83 inquiry from Pat Tummons, St. Louis Post Dispatch.

a. Tummons indicated awareness that Philippine Archive records existed and was asking to look at such records.

b. Questioning about type of story she was working on revealed that what she really wanted was verification of military service of Ferdinand Marcos and the decorations and awards he received.

c. Tummons was advised to contact MILPERCEN, Military Awards Branch, LTC Hickman at 202 325 8700, or write to that office, ATTN: DAPC-AL, Hoffman Bldg, Alexandria, VA 22331, for information about Marcos awards and military service.

d. She still wanted to look at Philippine Archive records. She was advised that research access to the collection of files wasn't being granted as the collection was being evaluated as to how it could be separated from classified material, or material declassified, and that decision was pending.

2. No follow up requests were made to the Public Affairs Office (RCPAO).

GLADYS MAESER
Public Affairs Specialist

October 7, 1983

Personnel Services Directorate

Dr. Arturo M. Tacs
603 Broadway
Venice, Illinois 62090

Dear Dr. Tacs:

This is in response to your letter of July 5, 1983 and to confirm subsequent phone conversations regarding your access to the Philippine Archives.

The Archives are in the process of being transferred from the custody of the Department of the Army (DA) to the National Archives. Unfortunately, the transfer is occurring at a time when you seek access; however, the transfer action has been long in waiting and is necessary for the preservation of this unique collection of historical documents. During the transfer period which should be completed during the latter part of November 1983, the entire collection will be closed to the public.

You are also advised that classified documents have been found to be interfiled throughout the collection. Therefore, it is the position of the Department of the Army that Philippine Archives remain closed to public after the transfer period until such time that the contents of the collection can be thoroughly reviewed to determine whether the need for classification exists and if it does, to what extent.

Should you desire to discuss this matter in further detail, you may direct your comments to Dr. John Henry Hatcher, Archivist of the Army, Headquarters, Department of the Army, Attn: DAAG-AMR, Hoffman Building I, Alexandria, Virginia 22331.

I regret that our response to you cannot be more favorable.

Sincerely,

Irwin R. Berndt
Major, General Staff
Deputy Director, Personnel Services

CF: Dr. J. H. Hatcher, DAAG-AMR
LTC J. Hickman, DAPC-ALA

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
ALEXANDRIA, VA 22331

REPLY TO ATTENTION OF

OCT 17 1983

Office of the Archivist

Mr. Jerry Wallace
Office of Federal Records Centers
National Archives and Records Service
Washington, DC 20408

Dear Jerry

This is to confirm our recent discussions on temporary closure of the "Philippine Archives" to facilitate orderly transfer from the Department of the Army to the Archivist of the United States.

While this is a routine procedure to facilitate the custodial processing of an operational file for eventual public access, the circumstances surrounding the Philippine Archives at this time are unusual. Unfortunately, this valuable historical collection raises certain political implications not normally encountered. While this is a temporary condition, we must accede to the wishes of a friendly allied government with respect to the classified portions of this collection. Accordingly, please continue your screening process to locate any of the documents described in the attached correspondence for segregation from the unclassified portion of the file.

When you are satisfied that this screening process is complete, public access to the unclassified file may be granted at the pleasure of the Archivist of the United States. Eventual disposition of the classified portions will be jointly determined between the Governments of the United States and the Republic of the Philippines. As these classified portions are presently the subject of multiple Freedom of Information Act demands which could lead to litigation, I suggest that they not be transferred to the Archivist of the United States at this time.

We propose that these files remain in the custody of the Department of the Army within the physical holdings of The Adjutant General (in Washington) until these actions have been finally resolved. At that future date, they will be forwarded to the Archivist of the United States as accretions to the main collection which by that time will have been accessioned into the National Archives.

The foregoing is to reassure your custodial people and to provide Major Berndt and his staff in St. Louis guidance for continuation of the accessioning process.

Sincerely,

Enclosures

JOHN HENRY HATCHER, PhD
Archivist of the Army

CF: RCPAC (AGUZ-PSE-AP/MAJ Berndt)
HQDA (DAPC-ALA/CWO Thayer)

PSE-AP

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
ALEXANDRIA, VA 22331 -0301

REPLY TO ATTENTION OF

DAAG-AMR-Z

29 August 1984

SUBJECT: Request for Access to Records

Commander
United States Army Reserve Components
Personnel and Administration Center
ATTN: Director of Personnel Services
9700 Page Boulevard
St. Louis, MO 63132

1. On 23 August we received a letter from Arturo M. Taca, M.D., P.C., addressed to Dr. John Henry Hatcher, requesting access to the "Philippine Archives" (Encl 1). I discussed the letter with Dr. Hatcher, who is now on the staff of the Office of the Assistant Chief of Staff for Information Management (OACSIM) and he asked that I refer the request to your office. A copy of our interim reply to Dr. Taca is at Encl 2.

2. We have no objections to your giving Dr. Taca access to records that do not require protection under the Privacy Act or must be given protection in the interest of national security.

FOR THE ADJUTANT GENERAL:

W R Boardman, CRM

2 Encl
as

W. R. BOARDMAN, CRM
Acting Chief
Records Management Division

ARTURO M. TACA, M.D. P.C.
503 BROADWAY
VENICE, ILLINOIS 62090

August 14, 1984

DR. JOHN HENRY HATCHER
Archivist of the Army
Department of the Army
Alexandria, VA., 22331

Dear sir;

I am respectfully requesting access to the Philippine Archives under the custody of the U. S. Army Reserve Components Personnel and Administration Center located in St. Louis, Mo., to pursue my research regarding the wartime activities of certain Philippine veterans who had served under the U.S. flag during the second world war.

My previous request for access was earlier denied by Maj. Irwin Berndt in his letter to me dated October 7, 1983 and it is now my belief that the grounds for denial do not now exist.

It is hoped that my request will merit your utmost consideration and further expect approval. Thank you very much.

Sincerely,

Arturo M. Taca, M.D.

-0301

August 29, 1984

Records Management Division

Arturo M. Taca, M.D., P.C.
603 Broadway
Venice, Illinois 62090

Dear Dr. Kaczmarek

This is in reply to your letter of August 14, 1984, addressed to Dr. Hatcher, which we received on August 23rd. The undersigned is replying for him.

We are referring your request for access to the "Philippine Archives" to the custodian of the records, the United States Army Reserve Components Personnel and Administration Center, St. Louis, Missouri 63132.

Thanks for your interest.

Sincerely,

WRB

W. R. Beardman, CRM
Acting Chief
Records Management Division

OCT 04 1984

Arturo M. Taca
603 Broadway
Venice, IL 62090

Dear Dr. Taca:

This is in response to your letter of September 23, 1984, requesting information on the Philippine Archives, under the provisions of the Freedom of Information Act.

The answers to your questions, numbered a), b), c), and d), are as follows:

a. While the collection has been in our custody, no Philippine government officials have been granted access.

b. Not applicable.

c. Not applicable.

d. The documents were reclassified in early September, 1983, while in Army custody. Your questions about the authority and reason for the Army's classification, as well as questions regarding access to the records prior to transfer to this Center, should be directed to:

Army Records Management Division (DAAG-AMR)
Administrative Management Directorate, TAGO
Alexandria, VA 22331

The Philippine Archives records are scheduled for transfer before the end of 1984 to the National Archives in Washington. During the time the records remain in St. Louis (while we are processing them for transfer), the Philippine Archives collection is closed to research. Any questions you may have regarding further access to the records should be addressed to:

Military Archives Division (NNM)
National Archives and Records Service
Washington, DC 20408

Sincerely,

PAUL D. GRAY
Assistant Director
for Military Records

cc:
DAAG-AMR (TAGO)
Kay Joyce (Philippine Army Branch)
NNM
RCPAC

INFORMATION PAPER

SUBJECT: Army Responses to Requests for Access to Military Records Concerning Ferdinand Marcos

Background:

Prior to 1984, certain records concerning the military activities of Ferdinand Marcos during WWII were in the possession and legal custody of the Army. They were physically located at the Philippine Army Branch of the U. S. Army Reserve Components Personnel Administration Center (RCPAC). These records were part of a vast holding of Philippine Army records, known informally as the "Philippine Archives," which were divided into two general categories:

1. Personnel Files. These consist of 950 five-drawer file cabinets of records, indexed by name, pertaining to approximately 1,000,000 Filippinos who served, or allegedly served, with the Philippine Commonwealth Army or with a recognized guerrilla unit of the U. S. Armed Forces Far East during WWII. These records were compiled during or shortly after the war and were transferred by the Philippines to the U. S. Army in 1951. Since then nothing has been added to these files other than current copies of papers concerning the individual's status of service. Filippinos who rendered creditable service to the U.S. Army during the war are entitled to certain veterans' benefits, see 38 U.S.C. § 107. The Army maintains these records for the purpose of responding to inquiries, largely from the Veterans Administration, regarding the nature of the service of these persons. This is a system of records for which the Army has published a systems notice pursuant to the Privacy Act. See 48 Federal Register 25670, June 6, 1983.

2. Administration and Adjudication Files. These consisted of approximately 2,000 cubic feet of paper documents and microfilm pertaining to Filipino activity during WWII. They were used to support the administration of the personnel files and as a basis for characterizing the service of individual Filippinos. The records concerning Marcos' claim for recognition of the Ang Manga Maharlika (AMM) guerrilla organization were located among these files, as were rosters compiled and collected by the Army on various Filippino guerrilla and military organizations.

For a number of years, Dr. John Hatcher, an Army archivist who now works in the Office of the Assistant Chief of Staff for Information Management, negotiated with the National Archives and Records Service to have these records, or at least the historically significant parts, transferred to the National Archives. Those negotiations finally resulted in agreement by which the National Archives would accept most of the Administration and Adjudication (A&A) files. The Army was to retain all of the personnel files, and about 200 cubic feet of the A&A files, for the purpose of processing new claims of service and responding to inquiries about the service of persons listed in the files. The preparations for the transfer began in 1983 and took over a year to complete, during which time the records were closed to public access.

Chronology of Requests: 1982 to 1984

1. Prior to October 1982. Mr. John Sharkey, a Washington Post reporter, had made several informal requests for access to the Philippine Archives, asking in particular for information on Marcos and the AMM guerrilla organization. On October 15, 1982, the Office of The Adjutant General sent a memorandum to RCPAC indicating that these records were subject to the Freedom of Information Act (FOIA) and that it saw no basis for withholding the unit roster containing Marcos' name or the statement of Marcos' service

prepared by the Philippine Army Branch (PAB). This memo also recommended that the RCPAC advise Mr. Sharkey and any other requesters that future requests be made in writing so they could be processed in accordance with the FOIA.

2. October 19, 1982. Mr. Sharkey wrote to Ms. Gladys Maeser in the RCPAC Public Affairs Office requesting information on the AMM. Major Irwin Berndt, Deputy Director of Personnel Services Directorate for RCPAC, responded on November 29, 1982, providing Mr. Sharkey with a unit and casualty roster of C Company, AMM, and a unit roster for the Alles Intelligence Unit. Major Berndt stated that no other information was available and explained that the Army did not recognize the activities of the AMM until February of 1945, so it has no records prior to that time. When recently asked for clarification of his response to Mr. Sharkey, Major Berndt stated that he released all of the records concerning the AMM which he could locate at that time. He had no knowledge of the existence of the adjudication records concerning Marcos' claim for recognition of service with the AMM between 1942 and 1944.

3. December 8, 1982. Mr. Sharkey wrote to Ms. Maeser asking for information concerning the decorations awarded to Marcos. Major Berndt responded on January 20, 1983, providing additional information on the guerrilla rosters previously released and indicating that the request for information about Marcos' decorations was being forwarded to the Military Personnel Center (MILPERCEN) in Alexandria. According to Mr. Thayer at MILPERCEN, he personally picked up Marcos' personnel file from RCPAC, but not until May of 1983. Nonetheless, Mr. Thayer eventually provided Mr. Sharkey with the information he was seeking concerning Marcos' decorations. Marcos' personnel file was transferred to MILPERCEN in order to review it for a possible Medal of Honor award, which can only be done by MILPERCEN, and also because MILPERCEN was

receiving most of the requests for information about Marcos' WWII decorations, all of which was contained in this file.

4. July 28, 1983. Major Berndt sent a memorandum to Dr. Hatcher suggesting that rosters of Filippino guerrilla units should be declassified. Part of the preparation of the Philippine Archives for transfer to the National Archives involved segregating out classified documents and declassifying them where appropriate. This request for classification review was also prompted by another FOIA request for the AMM roster from an unknown requester. There was apparently some confusion at RCPAC as to the actual classification status of the AMM roster; a copy had been provided to Mr. Sharkey earlier. (See item 2 above.)

5. August 12, 1983. Colonel Donald P. Press, Director of Counterintelligence for the Office of the Assistant Chief of Staff for Intelligence (ACSI), wrote to the Philippine government to solicit its views on the need for these guerrilla unit rosters to be classified. On October 12, 1983, Colonel Press sent a memorandum to Dr. Hatcher indicating the Philippine government's desire that these rosters remain classified. As a result, these rosters are currently classified, including those provided previously to Mr. Sharkey.

6. September 13, 1983. Mr. Sharkey wrote to RCPAC seeking access to the Philippine Archives. In particular he asked for copies of certain General Orders and for a file designated: 300.4 bk 14, Microfilm No. 77. Major Berndt responded on October 18, 1983, indicating that the Philippine Archives were closed to the public for the purpose of transferring custody of the records to the National Archives. Major Berndt indicated that the transfer would be complete in the latter part of November, 1983, but that the classification review of the re-

cords would continue after that time, and that this would require that the records continue to remain closed.

7. September 23, 1983. Ms. Maeser received a telephone call from Ms. Pat Tummons, a reporter from the St. Louis Dispatch, seeking access to the Philippine Archives. Mr. Maeser advised Ms. Tummons that information concerning Marcos' decorations could be obtained from MILPERCEN and that the rest of the Philippine Archives collection was closed to the public while it was being prepared for transfer to the National Archives

8. October 7, 1983. Major Berndt sent a letter to Dr. Arturo Taca explaining that Dr. Taca's request for access to the Philippine Archives could not be granted since the records were temporarily closed to the public. Major Berndt's letter refers to a July 5, 1983, letter from Dr. Taca, but no record copy of that letter can be found. According to Major Berndt, Dr. Taca followed up his written request with a telephone call in which he sought to make an appointment to visit the Archives. Major Berndt informed Dr. Taca that the Archives were closed, and sent his letter of October 7 as a reiteration of his statements over the phone.

9. June 1984. According to Mr. Paul Gray, Assistant Director for Military Records at the National Personnel Records Center (NPRC), an affiliate of the National Archives, legal custody of most of the A&A files of the Philippine Archives passed to the National Archives at this time. Since RCPAC and the NPRC occupied the same building, the records were not physically moved at this time. However, except for those portions which were classified by the Army, such as guerrilla unit rosters, authority to grant access to these records passed from the Army to the National Archives.

10. August 14, 1984. Dr. Taca wrote to Dr. Hatcher requesting access to the Philippine Archives. On August 29, Dr. Taca's request was forwarded to RCPAC by Mr. W. R. Boardman, Acting Chief of the Records Management Division of the Office of The Adjutant General (TAG). In the transmittal memorandum, Mr. Boardman stated that TAG had no objection to granting Dr. Taca access to those records which were neither protected under the Privacy Act nor protected in the interest of national security. At this time, the Army had the authority to grant access only to the personnel files, a small amount of the A&A files, and the classified guerrilla rosters. The AMM adjudication file was not among these records. There is no record at the Army Reserve Personnel Center, formerly RCPAC and the present location of the Philippine Army Branch, of a written response to Dr. Taca's request. Major Berndt could not recall any particular disposition of this request by the Philippine Army Branch.

11. October 4, 1984. Mr. Paul Gray from the NPRC wrote to Dr. Taca in response to his written request for information concerning the Philippine Archives. Mr. Gray was acting solely on behalf of the NPRC and the National Archives and Records Service, which had become the legal custodians of most of the A&A files formerly maintained by the Philippine Army Branch of RCPAC. (See item 9 above). Mr. Gray provided the Philippine Army Branch with an information copy of this letter.

Assessment of the Army's Actions.

The records which exist concerning the Army's actions during 1982, 1983 and 1984 in response to requests for access to the Philippine Archives indicate no improprieties on the part of the Army. Until the Archives were legitimately closed to the public in 1983, the Army made good faith attempts to comply with all such requests. That the AMM adjudication files pertaining to Marcos did not come to light during this time resulted from the general nature of the access requests and the vast size of the record holdings. Until archivists at the NPRC located them in the fall of 1984, it does not appear that the custodians of the A&A records even knew of their existence.

Eric M. Murdock
X51277

DISPOSITION FORM

For use of this form, see AR 340-15; the proponent agency is TAGO.

REFERENCE OR OFFICE SYMBOL	SUBJECT
DAAG-AMR-S	Release of Information and Documents from the Personnel File of MARCOS, Ferdinand E.

TO AGUZ-DCO FROM DAAG-AMR DATE 15 Oct 1982 CMT 1
Mr. Walker/325-6163

1. Reference your request for guidelines on the releasability of information and documents from the World War II personnel file of Ferdinand E. Marcos, then an officer of the Philippine Recognized Guerrillas, now President of the Philippines.

2. This office understands that as of 13 October 1982, the requester, Mr. Sharkey of the Washington Post, has restated his earlier request, and that he now seeks the unit roster containing Marcos' name, which is in the file, and the official statement of service prepared by you; also, a new request for "any information" on the Angmangamaharlika Guerrilla unit which may be in the Philippine Guerrilla files.

3. From a statutory and regulatory standpoint, we see no basis for not releasing the unit roster in the personnel file and the statement of service, and recommend that they be provided to the requester.

4. The provisions of the Freedom of Information Act (FOIA) would apply to the Marcos file as any other Army official record. Thus far the requester's inquiries have been informal and handled routinely, and he has not invoked the FOIA. However, if further requests are made for documents from the personnel file, or for information about the file, this office prefers that they be submitted in writing so that the privacy and other provisions of the FOI may be formally considered.

5. Regarding the request for "any information" on the Angmangamaharlika unit: since it appears that Mr. Sharkey's research is expanding and you may yet receive more requests, recommend that he be asked to put this and future requests in writing, being as specific as possible, to facilitate records search.

GUY B. OLDAKER
Chief, Records Management
Division

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
U.S. ARMY RESERVE COMPONENTS PERSONNEL AND ADMINISTRATION CENTER
ST. LOUIS, MO 63132

REPLY TO
ATTENTION OF

OFFICIAL STATEMENT OF THE MILITARY SERVICE

OF

FERDINAND E. MARCOS

The official records show that Ferdinand E. Marcos, 041394 who gave his date and place of birth as 11 September 1917, Sarrat, Ilocos Norte, Philippines, served as a member of the Philippine Commonwealth Army, including the recognized guerrillas, in the service of the Armed Forces of the United States, from 16 November 1941 to 1 March 1946, the date honorably discharged. Service was pursuant to the Call of the President of the United States dated 26 July 1941. The records further show he was confined as a Prisoner - of - War from 9 April 1942 to 4 August 1942.

This official statement furnished 82/10/15.

FOR THE COMMANDER:

IRWIN R. BERNDT
MAJOR, GS
DEPUTY DIRECTOR, PERSONNEL SERVICES

Roster of 14th Inf and this SOS mailed to Mr. Sharkey on 15 Oct 82.

G.Maeser,PAO

The Washington Post
1150 15th STREET, N. W.
WASHINGTON, D. C. 20071
(202) 334-6000

WRITER'S DIRECT TELEPHONE NUMBER
202 334-7400

Oct. 19, 1982

Dear Ms. Maesur:

Following up on our recent telephone conversation I writing to spell out my request for information about the World War II Filipino guerrilla organization known as Ang Manga Maharlika.

The group is generally referred to as the Maharlika. It was reportedly active in various places in Luzon, including the Manila area, during the Japanese occupation.

I would like as much information as possbile about the Maharlika. This would include, though not limited to, such material as personal rosters, reports on activities, unit histories, intelligence reports, orders from higher commands and unit citations.

May I ask that I be informed if any information cannot be disclosed?

Again I would like to thank you and the rest of your staff for the help I have received throughout.

Yours Sincerely
Robert Sharkey

COPY FOR YOUR INFORMATION

FILE

ACUL-PSE-AP

29 November 1982

The Washington Post
Attn: Mr. John Sharkey
1150 15th Street, N.W.
Washington, DC 20071

Dear Mr. Sharkey:

This is in reply to your request for information regarding the Ang Manga Maharlika guerrilla unit.

We have inclosed copies of the unit roster and casualty roster for C Company, Ang Manga Maharlika and the unit roster for Allied Intelligence Unit. None of the other records you requested are available.

It should be clearly understood that the US Army Reserve Components Personnel and Administration Center (RCPAC) can only report factual record data from those files within its custody. By the very nature of these records compiled on guerrilla units during a period of war, such records are fragmentary and may or may not be all inclusive. Guerrilla units operating in the Philippines were in constant fear of infiltration by Japanese occupation authorities and kept as few written records as possible.

A good case in point is Ferdinand E. Marcos, who cited participation in the Maharlika during the 1942-1944 time frame; however, our Government did not officially recognize the activities of that unit until February 1945; and, RCPAC simply does not have any records prior to recognition.

Another possible source of information in addition to the National Archives might be the Army Center of Military History in Washington.

Sincerely,

Enclosures

IRWIN R. REKNDT
MAJOR, GS
Deputy Director, Personnel Services Directorate